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ABSTRACT

This book contains a comprehensive report and set of recommendations on victims' rights and services. Section 1, "New Directions in Victims' Rights," reviews the nation's progress over the past two decades toward establishing state and federal rights for victims of crime. In Section 2, "New Directions for Criminal and Juvenile Justice System Agencies," the critical role that each agency must play within the justice system is defined as implementing and enforcing victims' rights and in improving the overall treatment of crime victims within our nation's justice systems. Section 3, "New Directions for Victim Assistance and Allied Professionals," identifies areas where services for victims of crime can be enhanced and highlights the innovative promising practices that each profession has developed to improve victim services. A chapter is included on the educational community covering crime on school grounds/campuses, education about victimization, prevention methods, and recommendations from the educational community. In Section 4, "New Directions in Financial Recovery," addresses three major avenues that victims can pursue to recover their financial losses due to crime: compensation, restitution, and civil remedies. Section 5, "New Directions for Child Victims," addresses the unique needs of young victims and outlines the legal rights and protection rights of child victims. It also reviews the long-term effects of crime and provides examples of programs and services for child victims. Section 6, "New Directions in International Victim Assistance," discusses global issues facing the field of victim services today and briefly highlights approaches that have been taken in other countries to address crime victims' needs. References follow each chapter. (Includes 2 appendixes.) (MKA)

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U.S. Department of Justice
Office of Justice Programs
Office for Victims of Crime

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Foreword

Fifteen years have passed since the chair of the 1982 President's Task Force on Victims of Crime called the neglect of crime victims in the United States a national disgrace. Today, we can be proud that our nation listened and responded to victims and their advocates. Victims' rights laws have been enacted in every state, more than 10,000 victim assistance programs have been developed around the country, and every state has established a crime victim compensation program. The creation of a federal Crime Victims Fund, which was first proposed by the task force, has provided more than $2.3 billion from fines paid by federal criminal offenders to support many of these lifeline services for victims.

But even today, too many victims and their families are not active participants in the criminal or juvenile justice process. In the words of President Clinton, they are still "on the outside looking in." They are denied meaningful participation in the justice system and services to meet their most basic needs. Victims' rights laws vary significantly from state to state and often remain unenforced. For millions of victimized Americans, the system still hurts more than it helps.

This document—*New Directions from the Field: Victims' Rights and Services for the 21st Century*—is a comprehensive report and set of recommendations on victims' rights and services from and concerning virtually every community involved with crime victims across the nation. The report is the result of more than three years' work by more than 1,000 individuals in different professions. It examines how victims' rights and services have been realized since the 1982 *Final Report* of the President's Task Force and recommends what we as a society should strive to achieve for victims as we enter the 21st century. While the recommendations may not reflect all of the individual contributors' views, the contributors agree that all of the recommendations are worthy of discussion and consideration.

The work of these individuals and the publication and dissemination of this material has been supported by the Office for Victims of Crime (OVC) of the United States Department of Justice. The report and recommendations represent views from the field, however, and do not necessarily reflect the views of the Department of Justice. We are grateful to the Department of Justice for providing resources so this important document could be developed and made widely available.

The Authors and Process

New Directions incorporates views from the field—including crime victims, representatives from national victim advocacy and service organizations, criminal justice practitioners, allied professionals, and many others—who provided the background materials and recommendations contained in this action plan. That group includes 32 nationally recognized experts who developed background papers on the areas addressed in this report. The ideas and proposals in the background papers were enhanced by the comments of nearly 100 expert reviewers. Many individuals from the criminal justice and victim service fields provided substantive input into this document through expert summits; public hearings; focus groups of representatives from the judiciary, law enforcement, prosecution, and corrections, the faith community, and the crime victim compensation field; and symposia on hate and bias crimes, workplace violence, and the news media.

Additional input was obtained in 1997 from state administrators of Victims of Crime Act (VOCA) assistance programs from all 50 states. Further program information on "promising practices" was derived from OVC grant projects in the areas of law enforcement, prosecution, corrections, probation and parole, victims of juvenile offenders, death notification, rural victims, technology, and victim involvement with community service. In late 1997, meetings of leaders in the crime victims field were held to review and finalize the recommendations. All who participated in those meetings were impressed by the scope and innovation of the collective work of the field that is presented in *New Directions*.

On behalf of all those committed to improvement of services to crime victims, we express our deep appreciation to the Department of Justice for its financial support of this effort. We are especially grateful to Aileen Adams, who served as Director of OVC during the core 3 years of this project's development. Her extraordinary leadership ensured that this report truly reflects the diverse views from the field. Moreover, her commitment to justice and healing served as a guiding force to listen to the voices of crime victims across America as "new directions" were identified. We also want to acknowledge current Acting Director Reginald Robinson for his support in bringing *New Directions* to publication and in ensuring that this report is widely disseminated throughout the nation.

A project of this magnitude requires the hard work of many individuals. Ashley Oliver Barrett, Special Assistant to the Director, deserves special distinction for her tireless efforts in every aspect of this remarkable endeavor, not the least of which was guiding this document through final publication. We are also grateful for the outstanding work of former OVC staff members Katia Garrett, who provided keen legal analysis and insight into the many complicated issues addressed in this report, as well as Sharon English and Melanie Smith, for their efforts in laying the foundation of *New Directions*. Many other OVC staff deserve special thanks for the guidance and insight they provided along the way.

Christine Edmunds, who joins us in signing this foreword, also should be recognized for her exceptional work over the past 3 years in developing this report. As a consultant to OVC for *New Directions,* Ms. Edmunds conducted extensive research to amplify sections of the document, identified additional promising practices, shaped and refined ideas and recommendations, and wove together the information obtained from the field to present in this report.

Finally, the essential contributions of crime victims themselves must be acknowledged. Victims presented their views and priorities during hearings and forums, as members of advisory boards on grants, in focus groups, and as writers and researchers on this project. The concerns and recommendations of hundreds of victims of all ages—children, adults, and the elderly—have been invaluable in developing and shaping this report.

The Challenge Ahead

New Directions is intended to foster a dialogue in which various participants listen to differing views, refine the report's recommendations, and develop a strategy for providing justice and comprehensive services for all crime victims in the 21st century. We urge every American who interacts with victims, from police officers to prosecutors, from judges to corrections officials, from members of the clergy to business leaders, to join in this dialogue and implement the programs and reforms that make sense for their own communities. During all the years that we have worked with and on behalf of crime victims, we have seen the doors of justice gradually open for some. It is our great hope that this report and the dialogue it fosters will move our nation closer to the day when the doors of justice open for all victims of crime. With this wish, we sign this foreword on behalf of all those who contributed to *New Directions.*

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Executive Summary

New Directions from the Field: Victims' Rights and Services for the 21st Century challenges the nation to renew and refocus its efforts to improve the treatment of victims of crime. It is the first comprehensive plan regarding how the nation should respond to crime victims since the 1982 President's Task Force on Victims of Crime identified the American justice system as "appallingly out of balance," and made 68 recommendations for how rights and services for crime victims in this nation could be substantially improved. *New Directions* highlights the progress and the momentous changes that have taken place across our nation's justice systems and in the private sector since the release of the 1982 report. It identifies hundreds of innovative public policy initiatives and community partnerships that are revolutionizing the treatment of crime victims in America today, and it recommends improvements that still need to be implemented on behalf of crime victims.

Today only a fraction of the nation's estimated 38 million crime victims receive much-needed services such as emergency financial assistance, crisis and mental health counseling, shelter, and information and advocacy within the criminal and juvenile justice systems. This report presents more than 250 recommendations targeted to nearly every profession that comes in contact with crime victims—from justice practitioners, to victim service, health care, mental health, legal, educational, faith, news media, and business communities—and encourages them to redouble their efforts to enhance victims' rights and services.

New Directions reflects views from a broad cross-section of the criminal and juvenile justice, allied professional, and victim service fields. Contributors to this report include crime victims themselves and representatives of the agencies and organizations that serve them. Hundreds of individuals across the country proposed recommendations for this report by participating in public hearings; submitting background papers on diverse victims' issues; serving on working groups with representatives from law enforcement, prosecution, and corrections agencies as well as the judiciary; and participating in focus groups with allied professionals. All who contributed to this report hope that it will serve as a catalyst to a dynamic and far-reaching discussion about how our nation can improve its response to victims of crime, and that it will precipitate practical steps toward making the ideas presented in this report a reality.

New Directions was developed by the field, and its recommendations do not necessarily reflect the views of the Justice Department or the Office for Victims of Crime. In addition, all of the recommendations may not represent the views of every contributor, as over 1,000 individuals provided input into this document.

> *'New Directions' is an important road map for comprehensive and consistent rights and services for all victims of crime in the 21st century.*
>
> Aileen Adams,
> former Director,
> Office for Victims of Crime

Five Global Challenges from the Field

Summary of Recommendations

In the course of compiling the hundreds of recommendations from the field and in listening to the voices of victims, their advocates, and allied professionals who work with crime victims throughout the nation, certain key recommendations emerged. The following five global challenges for responding to victims of crime in the 21st century form the core of the hundreds of ideas and recommendations presented in this report.

- To enact and enforce consistent, fundamental rights for crime victims in federal, state, juvenile, military, and tribal justice systems, and administrative proceedings.
- To provide crime victims with access to comprehensive, quality services regardless of the nature of their victimization, age, race, religion, gender, ethnicity, sexual orientation, capability, or geographic location.
- To integrate crime victims' issues into all levels of the nation's educational system to ensure that justice and allied professionals and other service providers receive comprehensive training on victims' issues as part of their academic education and continuing training in the field.
- To support, improve, and replicate promising practices in victims' rights and services built upon sound research, advanced technology, and multidisciplinary partnerships.
- To ensure that the voices of crime victims play a central role in the nation's response to violence and those victimized by crime.

New Directions provides recommendations that point specifically to the implementation of these five global challenges. Each section and chapter is based upon papers submitted by leading experts in the field as well as the input of victim advocates, justice system and allied professionals, crime victims, and others who participated in public hearings, working group meetings, and those who provided individual comments and review as the document progressed towards completion.

Organization of New Directions

As an update to the 1982 *Final Report* of the President's Task Force on Victims of Crime, *New Directions* follows the format established in the original report in setting forth its recommendations. It begins with a discussion of important public policy issues affecting crime victims, and each section that follows discusses how individual justice agencies and allied professionals can implement these, as well as other, important initiatives.

Additional topics and issues have been added as a result of the tremendous growth in the field and in response to new problems that have emerged during the past 15 years. As in the original report, each section of *New Directions* contains individual chapters designed to serve as stand-alone documents that present recommendations for specific issue areas or professions.

Section I

New Directions in Victims' Rights

For many years, victims of crime were virtually invisible in the laws and policies that govern our justice systems. To the extent victims of crime had a role in the justice system, it was narrow; to the extent victims had rights, they were few.

Section I, *New Directions in Victims' Rights,* reviews the nation's progress over the past two decades toward establishing state and federal rights for victims of crime, including a proposed federal constitutional amendment to guarantee those rights. It also presents recommendations from the field for ensuring that victims' rights, including fundamental rights for victims of juvenile offenders, are expanded and enforced within the American justice system.

Tremendous strides have been made to enact victims' rights laws and deliver services to victims in the United States. Few movements in the history of this nation have achieved such success in igniting the kind of legislative response that victim rights activists have fostered over the past two decades. In the early 1980s, state laws addressing victims rights, services, and financial reparations numbered in the hundreds. Today, there are more than 27,000 crime victim-related state statutes, 29 state victims' rights constitutional amendments, and basic rights and services for victims of federal crimes.

Nevertheless, serious deficiencies remain in the nation's victims' rights laws as well as their implementation. The rights of crime victims vary significantly among states and at the federal level. Frequently, victims' rights are ignored. Even in states that have enacted constitutional rights for victims, implementation is often arbitrary and based on the individual practices and preferences of criminal justice officials. Moreover, many states do not provide comprehensive rights for victims of juvenile offenders. In tribal, military, and administrative proceedings, the rights extended to victims differ dramatically or do not exist at all. Many victims, including victims from diverse cultures and those with disabilities, are not informed of their rights nor given the opportunity to participate in criminal and juvenile justice proceedings.

In *New Directions in Victims' Rights,* the field strongly recommends that the enactment and vigorous enforcement of consistent, fundamental victims' rights should be a priority for the 21st century. The first recommendation from the field is for the passage of a Federal Victims' Rights Constitutional Amendment to establish a basic level of rights for crime victims in every state. These include the following fundamental rights:

- To notice of public court proceedings and to attend them.
- To make a statement to the court about bail, sentencing, and accepting a plea.
- To notice of parole hearings and to attend them and speak.
- To notice of a defendant or convict's escape or release.
- To an order of restitution from the convicted offender.
- To a final disposition of the proceedings relating to the crime free from unreasonable delay.
- To consideration for the safety of the victim in determining a defendant's release from custody.
- To notice of these rights.
- To standing to enforce these rights.

The report strongly recommends that these fundamental rights should be established and enforced not only in the criminal justice system, but also for victims in *all* juvenile justice, military, tribal, and administrative proceedings. As a first step toward this goal, *New Directions* recommends that the federal government, states and tribes review their victims' rights laws to determine if these fundamental rights are extended to all crime victims.

This report also reflects the view of the field that states and the federal government should address the lack of implementation of many victims' rights laws by establishing effective enforcement mechanisms for victims, including victims' rights compliance programs. It recommends that audits of local, state and federal compliance with victims' rights laws be conducted frequently by justice agencies and independent auditors to determine the reasons for noncompliance and how enforcement of victims' rights can be improved.

Finally, a system of comprehensive services requires dedicated resources. A major step toward that goal was the enactment of the 1984 Victims of Crime Act, which established a creative federal funding mechanism that relies on the collection of fines and penalties from convicted federal offenders rather than federal tax-based appropriations. That amount varies, however, and may not be enough to ensure consistent and comprehensive implementation of victims' rights laws and needed services. Many criminal justice officials and victim advocates continue to assert that there is a lack of comprehensive services in *every community* for victims of crime resulting in part from inadequate funding. New and creative sources of funding must be identified to ensure the implementation of rights and quality services for *all* crime victims.

Section II

New Directions for Criminal and Juvenile Justice System Agencies

When a person is harmed by a criminal act, the agencies that make up our criminal and juvenile justice systems have a moral and legal obligation to respond. It is their responsibility not only to seek swift justice for victims, but to ease their suffering in a time of great need. Section II, *New Directions for Criminal and Juvenile Justice System Agencies*, discusses the critical role that each agency within the justice system—law enforcement, prosecution, judiciary, and corrections—must play in implementing and enforcing victims' rights and in improving the overall treatment of crime victims within our nation's justice systems.

Chapter Two, *New Directions for Law Enforcement*, addresses law enforcement's role as the frontline of victim assistance. As the first responders to reported crimes, law enforcement agencies must ensure that victims are treated with sensitivity and provided with essential information and emergency assistance. This chapter addresses innovations including law enforcement-based victim assistance units; on-scene crisis units where specially trained counselors and law enforcement officers respond together to victims; and multidisciplinary programs that have been launched in hundreds of law enforcement agencies across the nation to respond to the needs of child, elderly, domestic violence and sexual assault victims. A number of recommendations for the law enforcement community are advanced by the field. For example, law enforcement agencies should adopt community policing philosophies that are both victim and crime prevention oriented. The field also recommends that law enforcement agencies establish policies and procedures for the provision of legally mandated victims' rights and services such as notifying victims of the status of an investigation, arrests, and pretrial release of suspects in their custody. In addition, compliance with victims' rights policies and procedures should be included as a standard in officers' performance appraisals.

Chapter Three, *New Directions for Prosecution,* addresses our nation's prosecutors. Today, prosecutors are recognizing that to most effectively prosecute a case, the victim must be part of the process. The chapter highlights programs such as special prosecution units for child abuse, sexual assault, and domestic violence; victim/witness assistance programs that provide comprehensive information, notification, advocacy, and support to crime victims; and community prosecution initiatives. This chapter also contains several recommendations that specifically address the prosecutor's role in informing, consulting with, and notifying crime victims. For example, because the overwhelming majority of felony cases are resolved through plea agreements, the field recommends that prosecutors consult with victims on the terms of any negotiated plea. The field also recommends that prosecutors confer with victims of violent crimes before declining to file charges. Other recommendations for prosecutors include the need to notify victims in a timely manner of public court proceedings and to advocate for their rights to be heard regarding bail decisions, continuances, sentencing, and restitution. The field also recommends that prosecutors and leaders of victims' organizations develop protocols for ensuring appropriate notification and consultation in cases involving large numbers of crime victims.

Chapter Four, *New Directions for the Judiciary,* addresses the pivotal role that judges play in the justice process. The judiciary has initiated many victim-sensitive problem-solving efforts such as specialized drug courts; domestic violence courts; community courts that handle "quality of life" misdemeanor crimes; unified family courts that handle all problems relating to the family including criminal, civil, and juvenile matters; and courts designed specifically for child victims. The report recommends that as leaders within the justice system, judges should ensure that victims' rights laws are fully implemented. *New Directions* recommends that judges should advise victims of their rights as routinely as they advise defendants of their rights and should facilitate the input of crime victims regarding proposed plea agreements. In addition, judges should permit the victim to present a victim impact statement before imposing a sentence, and courts should utilize communications technology (audio/video) to facilitate victim communication. The field also recommends that judges manage their cases and calendars to make victim involvement as feasible as possible, and that they order full restitution from offenders to help compensate victims for the harm they have suffered.

The last chapter in this section, *New Directions for Corrections,* encompasses the adult and juvenile justice agencies responsible for the incarceration, detention, supervision, and surveillance of those accused or convicted of committing crimes. Over the past decade, the basic philosophy of correctional agencies has undergone radical change.

Traditionally, correctional agencies viewed their role as limited to punishing and rehabilitating offenders. Today, serving crime victims is also widely accepted as an important part of the mission of many correctional agencies. This new role is reflected in their governing laws and internal policies and procedures, as well as in the attitudes of correctional personnel. More work is needed in this area, however. The field recommends that adult and juvenile correctional agencies open channels of communication with the community and with crime victims; that correctional agencies designate staff to provide information, assistance, and referrals to victims of crime; that they place a high priority on ensuring the protection of victims from inmate intimidation, threats, physical or other harm from offenders under their supervision; and that they inform victims of any change in the status of offenders that would give them access to victims or the community. To increase offender awareness of the consequences of their actions, correctional agencies for both adult and juvenile offenders should use victim impact panels and conduct courses on the effects of crime on victims.

New Directions for Criminal Justice System Agencies emphasizes the need for all criminal and juvenile justice personnel to ensure that the voices of victims are heard throughout the criminal justice process so that justice agencies are able to develop effective, victim-sensitive policies and programs. Education for these professionals should include presentations by victims about their justice system experiences. Crime victims are the "customers" of that system, and the agencies that interact with victims have an obligation to ask them to evaluate whether their needs are being met.

Section III

New Directions for Victim Assistance and Allied Professionals

Members of many different professions work directly with crime victims or come into contact with them on a daily basis. In addition to victim service providers, primary among these are professionals in the health care, mental health, legal, education, faith, business, and the news media communities. *New Directions for Victim Assistance and Allied Professionals* describes the important roles that these professions can play in assisting victims. It identifies areas where services for victims of crime can be enhanced and highlights the innovative promising practices that each profession has developed to improve victim services.

Chapter Six, *New Directions for the Victim Assistance Community*, addresses the very broad and diverse victim assistance field, including local, state and national programs. The chapter traces the roots of the victim assistance movement from the first state victim compensation program in the United States established in 1965 and the early victim assistance programs of the 1970s, to the full-fledged advocacy and service field that today is dedicated to meeting the physical, financial, and psychological needs of victims and their families. More than 10,000 victim assistance programs exist across the country, including over 2,000 that assist battered women, over 2,000 rape crisis centers, as well as countless other community-based and justice system-based programs that serve child victims, survivors of homicide victims, drunk driving crash victims, and others. These are extraordinary accomplishments for a movement that started less than three decades ago.

Yet for many victims in America, adequate services are still not available. Crime victims with disabilities, who are victimized at an unusually high rate, have great difficulty accessing services to meet their needs. Many victim assistance programs lack the ability to communicate effectively with deaf or blind victims, and most service providers are not trained to communicate with victims with cognitive or developmental disabilities. Criminal justice and other victim service providers are often not equipped to meet the needs of victims from diverse cultures or victims who speak languages other than English. As a result, these victims are not informed adequately of the services available to them or of their rights in the criminal justice system.

In this chapter, the victims' movement seeks to define a comprehensive system of victim services for all crime victims that includes immediate trauma and emergency response, short- and long-term psychological counseling, shelter, and advocacy throughout the criminal, tribal, military, and juvenile justice systems. It addresses the issues facing specific types of victims—including victims of domestic violence, sexual assault, stalking, gang violence, white collar crime, bank robbery, hate and bias crimes, survivors of homicide victims, elderly victims, and drunk driving crash victims—and makes recommendations for meeting their needs. Other recommendations in this section include conducting needs assessments; developing standards for victim assistance; providing basic training and continuing education for all victim assistance providers; and developing a national commission to establish certification and accreditation standards for victim advocacy and assistance.

The next chapter in this section, Chapter Seven, focuses on *New Directions for the Health Care Community*. In 1985, the Surgeon General declared violence in America to be a public health emergency. Today, this emergency has reached epidemic proportions. U.S. hospital emergency rooms treated an estimated 1.4 million individuals injured by interpersonal violence in 1994. Each year, gunshot violence costs $4.5 billion in medical expenses alone. This chapter discusses creative initiatives that have been taken by the health community to reduce violence and to provide assistance to crime victims. Hospitals are reaching out to rural victims through telemedicine, to victims of gang violence through violence prevention programs, and to victims of sexual assault through sexual assault nurse examiners programs. However, many challenges still remain. Recommendations in this chapter include encouraging all medical professionals to adopt protocols for responding to domestic violence, child, elderly, and sexual assault victims developed by their professional associations and to provide professional education programs on crime victims issues.

Intense feelings of anger, fear, isolation, low self-esteem, helplessness, and depression are common reactions to victimization. Chapter Eight, *New Directions for the Mental Health Community,* addresses the many short- and long-term mental health problems that can result from experiencing trauma including acute and post-traumatic stress disorder. Major advances have been made in furthering our understanding of crime-related psychological trauma and the best ways to provide treatment to crime victims. This chapter outlines a number of multidisciplinary programs which have been developed to address the mental health needs of crime victims. Recommendations encourage the mental health community to develop linkages with crime victim compensation, victim assistance programs, and criminal and juvenile justice agencies to ensure that victims have access to adequate crisis and mental health treatment at each stage of the justice process. They also address the continuing need for research on the mental health consequences of victimization and treatment of crime-related psychological disorders, as well as the importance of education and training for mental health professionals in providing appropriate mental health treatment to crime victims and their families.

Chapter Nine, *New Directions for the Legal Community*, addresses the role of lawyers serving in positions outside the justice system in private law firms, corporations, law schools, and government, who frequently come in contact with crime victims through their work. Attorneys and the organized bar associations to which they belong have worked to improve access to the justice system for crime victims by providing pro bono legal assistance to crime victims through community outreach and legal advocacy programs. The field encourages state and local bar associations to follow the lead of the American Bar Association, and many state and local bar associations, in establishing victim committees and to strongly support continuing legal education on crime victims' issues.

Chapter Ten, *New Directions for the Educational Community,* examines the pervasive problem of crime on school and college campuses, as well as how the educational community can assist crime victims. Our nation's schools provide the richest opportunity to teach children about victims' rights and services and crime prevention strategies. Education on these issues should begin in grade school and continue through college and graduate school. On many college campuses, where sexual assault and other crimes affect large numbers of students, information about these crimes and prevention strategies is rarely incorporated into classes or student activities beyond student orientation. Many victims turn first to their friends for assistance, and it is critical to educate those most likely to be called upon for advice. Since the release of the 1982 report, attention to school violence has greatly increased, and scores of programs have been developed to protect the safety of students, teachers, and administrators. The recommendations in this chapter focus on the continuing need for schools and universities to establish comprehensive programs to assist students, faculty, and staff who are victimized by crime or who witness violence. In addition, the report calls upon all school districts, colleges, and universities to design and implement a standardized system for documenting, analyzing, and reporting crimes to law enforcement. Equally important, *New Directions* encourages colleges and universities to establish undergraduate and graduate programs with a concentration in victims' rights and services, as well as to develop specialized education and training programs for faculty, administrators, and staff on crime victim issues.

In times of crisis, many individuals turn to clergy and leaders in the faith community for spiritual guidance, support, and information. Chapter Eleven, *New Directions for the Faith Community*, encourages faith community leaders to recognize that the victim, no less than the victimizer, is in need of aid, comfort, and spiritual ministry. It reviews the range of faith-based victim assistance programs that have been developed over the past decade, including providing shelter for battered women and camps for abused children. Training on victims' issues for those in the faith community is recommended as a priority so that they are better able to recognize signs of violence, understand critical issues of confidentiality, and make appropriate referrals for services.

Chapter Twelve, *New Directions for the Business Community*, addresses the importance of this community's response to crime victims. Employers have begun to recognize that it is good business to offer employees a full spectrum of assistance programs to help them deal with problems, including criminal victimization, that affect job performance and the safety of the workplace. Employee assistance programs are now routinely offered in many workplaces. Many employers and unions are implementing policies to prevent violence in the workplace and to assist employees who become victims. This chapter highlights innovative private sector approaches to improve the response to victims of workplace violence, including monetary and in-kind donations to individual victims and community victim services, and memorable programs that the television industry has produced to increase public awareness about crime victims' issues, particularly in the area of child abuse, sexual assault, gun violence, stalking, and domestic violence. The field recommends that all workplaces educate their employees about victimization and its impact.

The final chapter in this section, *New Directions for the News Media Community*, addresses the longstanding tension between the public's right to know versus the victim's right to privacy. The media's coverage of many high-profile cases and emerging crimes has contributed to positive changes in public policy, such as recognition of the need for community notification of sex offenders and anti-stalking statutes. News coverage has also helped to change public attitudes about the seriousness of violent crimes such as drunk driving and rape. But the media can have a negative impact on individual lives when victims are thrust, often unwillingly, into the media limelight in the aftermath of crime. This chapter encourages the media to adopt guidelines for sensitively covering victims' issues, such as protecting the privacy of sexual assault and child victims.

Section IV

New Directions in Financial Recovery

The costs to crime victims for medical expenses, mental health counseling, and lost wages alone are estimated at $105 billion annually. The fourth section of this report, *New Directions in Financial Recovery*, addresses the three major avenues that victims can pursue to recover their financial losses due to crime: compensation, restitution, and civil remedies.

The first chapter of this section, Chapter Fourteen, *New Directions for Crime Victim Compensation*, addresses the great progress that has been made to establish victim compensation programs in every state and to expand program benefits. Crime victim compensation programs pay for expenses such as medical care, mental health counseling, lost wages, funeral expenses, and crime scene cleanup. In 1996, state compensation programs paid approximately $240 million to more than 110,000 crime victims nationwide. The recommendations from the field in this chapter suggest that the circle of victims who qualify for compensation should be widened, and barriers that may prevent victims from applying for compensation, such as mandated time limits for reporting to law enforcement or submitting a claim, should be removed. Additional recommendations for compensation programs address issues such as improving claims management, expanding benefits for crime victims, and utilizing technology to facilitate program initiatives.

Chapter Fifteen, *New Directions for Restitution*, addresses restitution, which can be ordered in juvenile and criminal courts to hold offenders financially accountable for their crimes against victims. This chapter calls for mandatory, full, and consistent restitution orders nationwide. In addition, the field suggests all justice systems should establish more effective restitution programs that require coordinated efforts among officials across the entire justice system to increase restitution collections.

The final chapter of this section, *New Directions for Civil Remedies*, addresses the potential financial remedies that crime victims can seek through the civil justice system. Recommendations focus on informing victims and victim service providers of the legal rights of crime victims to pursue reparations through the civil justice system. Victims should be provided with information regarding their options within the civil justice system as another means of holding offenders accountable.

Each chapter in this section also addresses the importance of education and training for all who serve victims, as well as victims themselves, about these potential avenues of financial recovery. In addition, the section explores the use of technology, which offers exciting possibilities for improving claims processing and restitution collections so that crime victims no longer will be forced to wait several months or even years to receive critical financial support.

Section V

New Directions for Child Victims

Each year in America, millions of children directly experience or witness violence in their homes, neighborhoods, and schools. The impact of such crime and violence on our nation's youth is undeniably profound. Section V, *New Directions for Child Victims*, addresses the unique needs of young victims and outlines the legal rights and protections that have emerged at the federal and state levels for child victims of physical and sexual abuse, exploitation, abduction, and other types of crimes. It reviews the long-term impact of crime on child victims and presents examples of programs and services that have been developed across the nation to address their health and mental health needs, and to help them through the criminal justice process in sensitive and comprehensive ways. Much needed services include children's advocacy centers, court-appointed special advocates, and other multidisciplinary approaches.

This section also contains a number of recommendations to improve services for child victims, to develop training programs for all professionals who come into contact with child victims, and to enhance data collection and research initiatives in the area of child victimization.

Section VI

New Directions in International Victim Assistance

Individuals throughout the world—in large urban cities and in small villages—face problems with crime and violence, and much can be gained from examining the unique approaches to addressing the rights and needs of crime victims that have been undertaken by diverse communities and nations. Increasing numbers of people travel and live abroad, and are victimized in countries where they may be unfamiliar with the language as well as the legal and social service systems. Crimes such as international terrorism and commercial sexual exploitation of children are well documented, highlighting the need for countries to look beyond their national boundaries to share information and assist victims.

The final chapter of this report, Chapter Eighteen, discusses global issues facing the field of victim services today and briefly highlights approaches that have been taken in other countries to address crime victims' needs. In addition to serving their own victims domestically, many countries are participating in international collaborative efforts to improve the rights and treatment of crime victims worldwide. Recommendations in this section include improving services to American citizens who are victimized abroad and foreign citizens who are victimized in the United States, as well as continued collaboration and reciprocity in the provision of victim services worldwide.

> *I discovered long ago that among the most effective advocates I have seen are the survivors, those who have channeled their pain and anger into activism to achieve lasting reforms.*
>
> Attorney General
> Janet Reno,
> August 15, 1996

Conclusion

The victims' movement owes its beginning and many of its accomplishments to the activism of crime victims and their families and supporters. Many crime victims have struggled not only to survive and heal after their own victimization, but also to bring much-needed legal reforms, financial relief, and services to other victims. In charting *New Directions,* the field emphasizes the importance of recognizing the needs, desires, and potential contributions of crime victims themselves. Victims' voices must remain a powerful guiding force in developing new directions.

Since 1982, a substantial number of the 68 recommendations in the President's Task Force on Victims of Crime *Final Report* have been enacted and implemented due in a large part to the efforts of crime victims. These accomplishments include the Victims of Crime Act in 1984, the landmark Crime Act of 1994, the countless state statutes that strengthen victims' rights and hold offenders accountable to their victims, and the 29 state victims' rights constitutional amendments.

Throughout this report, the field urges representatives of justice agencies, including law enforcement officials, prosecutors, judges, and corrections administrators, to recognize the important role that crime victims play in helping to guide public policy. Justice and allied professionals must also realize that crime victims are an essential resource in developing and participating in victim assistance, training, and crime prevention programs. Community activism and service are often part of the healing process for many crime victims. Their contributions to groups that provide support for other crime victims and to programs that provide education about the impact of crime and how to prevent victimization in the future have been invaluable.

The many contributors to this report hope that communities around the country will benefit from the many "promising practices" and recommendations highlighted throughout *New Directions,* and that the dialogue on improving the response to victims continues in a spirited and visionary fashion. The Office for Victims of Crime is committed to facilitating this dialogue and to assisting communities everywhere with implementing innovative, comprehensive programs that provide victims with even greater opportunities for justice and healing.

Sampling of Promising Practices That Are Transforming Victim Services

In the last two decades, many promising practices in victim services have been developed across the nation. These innovative programs use a multidisciplinary or team approach to respond to the needs of diverse crime victims, maximize technology to deliver high-quality services to victims more quickly and effectively, and utilize community police, prosecutor, court, and corrections programs.

An important objective for the victims' movement in the 21st century should be to support and replicate these innovative ideas, with the goal of improving the quality of programs nationwide. In the new millennium, it is hoped that every community can adopt these promising practices in victims services to ensure that victims are provided services in specialized settings by agencies that work together and utilize technology to bring services to victims with greater efficiency.

Over 100 promising practices are highlighted throughout *New Directions*. These are just a few examples of the range of excellent services and multidisciplinary partnerships that have been established to assist crime victims.

Children's Advocacy Centers

The first children's advocacy center was initiated in Huntsville, Alabama in 1984 by a dynamic district attorney who wanted to change the traditional system in which sexually abused children were revictimized by having to retell their stories to numerous agency officials in frightening settings. Children's advocacy centers are designed especially for kids, allowing law enforcement officers, social workers, medical and mental health personnel, and prosecutors to work together to reduce the number of interviews and coordinate cases. Today, there are more than 350 children's advocacy centers in 48 states.

Community Criminal Justice Partnerships

In 1989, the sheriff of St. Martin Parish, Louisiana began a program to help his department respond to the needs of elderly crime victims. Called Triad, this collaborative program between law enforcement and senior citizens has been duplicated in communities across the country. Today, there are more than 500 programs in 46 states, Canada, and England. In Bridgeport, Connecticut, for example, the chief of police provides a bus and officers to help seniors living in a high-crime area go to the market and conduct their banking safely. Services offered by Triad programs include transportation to medical services and criminal justice proceedings, courtroom escorts, and repairs to damaged residences. The program is cosponsored by the American Association of Retired Persons, the International Association of Chiefs of Police, and the National Sheriffs Association.

Crisis Response Teams

The nation's first crisis response teams for victims were organized by the National Organization for Victim Assistance (NOVA) following the 1986 Edmond, Oklahoma post office shooting in which more than a dozen employees were killed. Since that galvanizing event, with NOVA's leadership and training and a growing interest among some states, response teams comprising professionals from a variety of disciplines, including psychologists, law enforcement officers, doctors, social workers, victim advocates, and religious leaders, have been assembled around the country. These teams provide assistance to communities in the aftermath of major crimes and acts of terrorism such as mass murders and bombings. In the wake of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, NOVA organized three crisis response teams to debrief and train more than 1,000 emergency responders, teachers, and school children.

Technologies to Benefit Crime Victims

Emerging technologies hold great promise for improving services to crime victims. In Kentucky, following the murder of a woman who was notified of the release of her accused assailant, the state developed a computerized system to inform victims when their accused or convicted offenders are released. Similar systems are being adopted around the country. Technology can be used to help victims participate in proceedings, to view trials moved to other communities using closed-circuit television, or to participate by satellite hookups during parole proceedings. In addition, telemedicine can be used to provide assistance from physicians in other locations to nurse examiners in rural areas during sexual assault or child abuse forensic examinations. Technology can also provide increased protection for victims of crimes such as domestic violence and stalking by utilizing cellular phones, house perimeter alarms, and electronic bracelets.

Community Police, Prosecutors, and Court Programs

Community policing, prosecution, and court programs are excellent vehicles for ensuring victim assistance. Law enforcement officers based in neighborhoods are uniquely situated to identify underserved crime victims and help them obtain needed assistance. In San Diego, California for example, community police officers are informed through a computerized database 24 hours a day of shelters that have available space and other information that helps them respond more effectively to victims of crime. Community prosecution programs such as the community drug impact program in the Eastern District of Wisconsin permit prosecutors to advise citizens of drug arrests in their neighborhood and request their participation in submitting community impact statements. A community court, like the Midtown Community Court in Manhattan, can address misdemeanor, quality-of-life crimes such as graffiti, prostitution, minor drug offenses, and shoplifting, and become an important victim service institution by enforcing immediate and meaningful restitution to victims and the community.

Initiatives of Allied Professionals

The efforts of allied professionals have greatly improved services to crime victims in many areas. Working with law enforcement and others in the criminal justice system, hospitals in some communities have created programs that provide a safe and secure atmosphere in which to conduct sexual assault examinations. Schools are presenting special violence awareness courses on topics ranging from child abuse and dating violence to gang awareness and prevention. Bar associations are establishing special trainings for attorneys who want to donate their services to crime victims and to represent them in civil litigation. The religious and spiritual community has established camps for abused children and broad-based educational programs and has provided locations for many victim assistance programs. The business community has not only provided millions of dollars to support victim assistance programs, but also over the past decade has increased public awareness of victimization among employees through new training programs and advertising campaigns about victims' issues. The mental health community is playing a pivotal role by establishing multidisciplinary teams to respond to victims of crime in a more coordinated way. In addition, many allied professionals contribute their services to crisis response team efforts around the country.

Comprehensive Victim Service Centers

This concept originated in Jacksonville, Florida where a comprehensive victim center, provides a wide range of services in one location for all crime victims. Center staff operate an emergency fund for victims, and counselors provide immediate crisis counseling and accompany law enforcement to all homicides. A staff member representing the state compensation program processes compensation claims onsite, and chapters of self-help groups such as Mothers Against Drunk Driving and Parents of Murdered Children operate in the center to provide emotional support to victims and survivors of victims of violent crime.

Specialized Programs for Diverse Crime Victims

Many of the innovative programs described in *New Directions* provide comprehensive services to underserved crime victims and encourage victims to participate in the criminal and juvenile justice systems. The Seattle Abused Deaf Women's Advocacy Services, established by a deaf victim for whom there were no services when she was sexually assaulted as a child, provides comprehensive assistance to deaf and deaf-blind victims who began reporting crimes in record numbers after this organization was founded. Victims of gang violence in Orange County, California, receive extensive services from the Gang Victim Services Program, in which multicultural, bilingual staff provide assistance with crime scene cleanup, funeral arrangements, victim-witness protection issues, interaction with the media, referrals to counseling, court advocacy, and victim compensation applications.

SECTION I

New Directions in Victims' Rights

The backbone of our justice system is the laws that give it shape and coherence. For many years, victims of crime were unrecognized in criminal and juvenile justice laws. To the extent victims of crime had a role in the justice system, it was narrow; to the extent victims had rights, they were few. This section examines the nation's progress in enacting laws to establish and enforce rights for crime victims. It is based upon papers submitted by leading experts in the field as well as the input of countless victim advocates, justice system professionals, crime victims, and others at public hearings and in working groups. This section reviews the nation's progress in the past two decades toward establishing state and federal rights for victims of crime, including a federal constitutional amendment to guarantee those rights. It also presents recommendations from the field for ensuring that victims' rights, including fundamental rights for victims of juvenile offenders, are expanded and enforced within the American justice system.

CHAPTER 1

Victims' Rights

Victims' Rights: Two Decades of Dramatic Change

The enactment of the nation's first state bill of rights for crime victims in 1980 in Wisconsin ushered in an era of dramatic progress for victims' rights.[1] In 1982, the passage of the federal Victim and Witness Protection Act[2] and the release of the *Final Report* of the President's Task Force on Victims of Crime brought national prominence to crime victims' concerns. The *Final Report* established a broad agenda for implementing victims rights and services, and most of its 68 recommendations are highlighted throughout this report. This section reviews many of the state and federal initiatives to expand the rights of crime victims since these seminal events.

State Initiatives

State progress in legislating rights for crime victims within the criminal and juvenile justice systems since the 1982 *Final Report* has been remarkable. When the Task Force began its work, only four states had enacted a set of basic rights for crime victims in the criminal justice system, commonly referred to as victims' bills of rights.[3] Today, every state has laws protecting victims' rights. Moreover, victims' rights have been strengthened in 29 states by constitutional mandate.[4]

The scope of rights extended to crime victims also has expanded significantly.[5] Although states have not established one standard set of rights for victims, most bills of rights contain basic provisions for victims to be treated with dignity and compassion, to be informed of the status of their case, to be notified of hearings and trial dates, to be heard at sentencing and parole through victim impact statements, and to receive restitution from convicted offenders.

Most states afford victims the right to notice of events and proceedings at various stages of the judicial process. Moreover, 35 states give victims the right to attend most criminal justice proceedings and 24 constitutionally protect that right.[6] Every state now allows courts to consider victim impact information at sentencing, and at least 41 states allow victims to make oral statements during sentencing hearings.[7] Virtually every state requires victim impact information as part of the presentence report, and at least half of the states expressly require the court to consider that information in sentencing decisions.[8]

Let us make sure that we give our victims the right to be heard—not in some dispassionate way in an impact statement, but in a courtroom if they want to be heard, so that people can know what it's like to be a victim. Let us give them an opportunity to participate, to be there, and to hold the criminal justice system at every level accountable.

U.S. Attorney General
Janet Reno
New York City National
Candlelight Vigil
April 25, 1993

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Each year, hundreds of new victims' rights laws and innovative practices are enacted and implemented across the country. Since 1990, after cases of stalking received national attention from the media and victim advocacy groups, all 50 states and the District of Columbia modified their laws to criminalize stalking.[9] Some state legislatures also reacted swiftly to the escalation of juvenile crime to record levels in the early 1990s by extending at least some rights to victims of juvenile offenders. In 1992, for example, only five states provided victims the right to be notified of a disposition hearing involving a juvenile. By 1995, 25 states provided this right.[10]

Despite this record of success, however, victims are still being denied their right to participate in the justice system. Many victims' rights laws are not being implemented, and most states still have not enacted fundamental reforms such as consultation by prosecutors with victims prior to plea agreements, victim input into important pretrial release decisions such as the granting of bail, protection of victims from intimidation and harm, and comprehensive rights for victims of juvenile offenders.[11]

Sadly today, victims' rights largely remain 'paper promises.' For too many victims and families, the criminal justice system remains more criminal than just when it comes to protecting their rights.

Roberta Roper, Founder, Stephanie Roper Committee, Co-chair, National Victims' Constitutional Amendment Network

Federal Initiatives

The 1982 passage of the federal Victim and Witness Protection Act and the release of the *Final Report* of the President's Task Force on Victims of Crime were the catalysts for a decade of advances in victims' rights.[12] The Act became a national model for state victims' rights laws, while the *Final Report's* 68 recommendations spurred legislative reforms and initiatives to improve criminal justice and allied professionals' response to crime victims.

Congress' strong advocacy for crime victims was reflected in the Victim and Witness Protection Act's statement of purpose: "to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process; to ensure that the federal government does all that is possible to assist victims and witnesses of crime, within the limits of available resources, without infringing on the constitutional rights of the defendant; and to provide model legislation for state and local governments."[13] Congress instructed the Attorney General to develop and implement guidelines for the Victim and Witness Protection Act within 270 days of its enactment. In response, the *Attorney General Guidelines for Victim and Witness Assistance (AG Guidelines)* were issued in 1983, establishing standard policies and procedures and a code of conduct for federal criminal justice officials who interact with crime victims.[14] The *AG Guidelines* have been updated periodically to incorporate new rights for victims, such as those set forth below.

In 1990, the Crime Control Act established a new framework for victims' rights by creating the first federal bill of rights for victims of crime.[15] This legislation, referred to as the Victims' Rights and Restitution Act of 1990, or the Victims' Rights Act, requires federal law enforcement officers, prosecutors, and corrections officials to use their "best efforts" to ensure that victims receive basic rights and services.[16] These include the right to be treated with fairness and with respect for the victim's dignity and privacy, to be reasonably protected from the accused, to be notified of court proceedings, to be present at all public court proceedings unless the court determines otherwise, to confer with the prosecutor, to restitution, and to information about the offender's conviction, sentencing, imprisonment, and release. The "best efforts" standard, however, made the federal law weaker than many state victims' rights laws, which make the provision of victims' rights and services mandatory.

In 1994, passage of the Violent Crime Control and Law Enforcement Act created new rights for victims of sexual assault, domestic violence, sexual exploitation, child abuse, and telemarketing fraud. The legislation also included significant funding for combating domestic violence and sexual assault, placing 100,000 community police officers on the street, and launching a variety of other crime prevention initiatives.[17]

Even in states with a victims' rights constitutional amendment, the overall protection of victims is varied and uneven. In addition, without federal constitutional protection, victims' rights are always subject to being automatically trumped by defendants' rights.

Robert E. Preston, Co-chair, National Victims' Constitutional Amendment Network

In 1996, the Megan's Law amendment to the Jacob Wetterling Crimes Against Children and Sexual Violent Offender Act was enacted to help ensure that communities are notified of the release and location of convicted sex offenders.[18] President Clinton also signed the Antiterrorism Act that year to strengthen efforts against terrorists and to make restitution mandatory in violent crime cases.

In 1997, Congress passed the Victims' Rights Clarification Act, asserting that victims should have the right to both attend proceedings and deliver or submit a victim impact statement. This clarification was issued in response to a judicial ruling prior to the first trial regarding the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, that precluded victims who chose to attend the trial from providing a victim impact statement at sentencing. Also in 1997, Congress adopted the Federal Antistalking Law, which made it a federal offense to cross a state line to stalk another. The act also made stalking within federal jurisdictions a federal offense.[19]

The Proposal for a Federal Victims' Rights Constitutional Amendment

The 1982 Presidential Task Force urged the passage of federal constitutional protection for victims' rights, advocating that the Sixth Amendment to the U.S. Constitution be amended to create specific rights for crime victims.[20] Subsequently, at a meeting sponsored by the National Organization for Victim Assistance (NOVA) and Mothers

Against Drunk Driving (MADD), victim activists and national victims' organizations created the National Victims' Constitutional Amendment Network (NVCAN) to provide leadership and coordination of efforts to amend the federal constitution.[21]

A decision was made by NVCAN to seek amendments to state constitutions before addressing a federal amendment. This strategy was adopted to enhance knowledge about the impact of state constitutional reforms for victims' rights and to establish a strong base of support prior to seeking a federal amendment. NVCAN spent the next decade assisting states in their efforts to pass amendments. One of the NVCAN members, the National Victim Center (NVC), played an important role during this period by serving as the central repository for information regarding constitutional amendment efforts around the country. Efforts to pass state constitutional amendments produced impressive results. In each of the 29 states where victims' rights amendments were put to a vote of the electorate, they won by an overwhelming majority, receiving 80 to 90 percent of the vote in most states.[22]

When someone is a victim, he or she should be at the center of the criminal justice process, not on the outside looking in.

President William J. Clinton,
Rose Garden,
June 25, 1996

In 1996, federal lawmakers focused on the significance of federal constitutional rights for crime victims when resolutions to add crime victims' rights to the Constitution were introduced in the Senate by Senators Jon Kyl and Dianne Feinstein and in the House by Representative Henry Hyde. Constitutional protection of victims' rights has proven to be a nonpartisan issue. The proposed federal constitutional amendment received bipartisan support in the U.S. Congress and was supported in both political party platforms and by both Presidential candidates in 1996.

In a Rose Garden ceremony on June 25, 1996, President Clinton endorsed a federal victims' rights constitutional amendment, stating:

> Participation in all forms of government is the essence of democracy. Victims should be guaranteed the right to participate in proceedings related to crimes committed against them. People accused of crimes have explicit constitutional rights. Ordinary citizens have a constitutional right to participate in criminal trials by serving on a jury. The press has a constitutional right to attend trials. All of this is as it should be. It is only the victims of crime who have no constitutional right to participate, and that is not the way it should be.

Rights for Victims of Juvenile Offenders

The President's Task Force recognized that many reforms in the juvenile justice system focused "solely on the benefits to be extended to offenders while ignoring the needs of a society burdened by their offenses."[23] The *Final Report* challenged the federal government to evaluate the juvenile justice system from the perspective of the victim who, the report argued, is "no less traumatized because the offender was under age."[24]

For most of this century, the emphasis on rehabilitating youthful offenders and protecting their confidentiality in the juvenile justice system has overshadowed the needs of their victims. The 1980s brought a decade of reforms to America's juvenile justice system, but few addressed the needs of crime victims. For example, when rights for victims of crime were enacted in state bills of rights in the 1980s, few states extended rights to the juvenile justice system. Of the 45 states that had enacted some form of victims' rights legislation by 1988, only 13 specifically defined their population to include victims of juveniles.[25] However, the dramatic increase in juvenile crime in the late 1980s and early 1990s, particularly the increase in the violent nature of such crimes, prompted demand for greater accountability from the juvenile justice system.[26]

The rights of victims of juvenile offenders should mirror the rights of victims of adult offenders in the United States. Crime victims should not be discriminated against based upon the age of their offenders.

Sharon English,
Deputy Director,
Office of Prevention
and Victim Services,
California Youth Authority

To ensure that victims of juvenile crimes are protected, states are enacting or amending victims' bills of rights to extend basic rights to victims of offenders in the juvenile justice system. While 46 states now allow courts to order restitution from juvenile offenders as part of the disposition of a delinquency proceeding or as part of an informal disposition, only half of the states have legislated comprehensive notification and participatory rights for victims of serious juvenile offenses.[27] With respect to victim notification, at least 25 states provide the right for victims to be notified of the disposition hearing, 23 states provide the right for victims to be notified of the adjudication hearing, and at least 25 states provide the right for victims to be notified of final adjudication.[28] With respect to victim participation, at least 28 states allow victims of juvenile offenders to submit a victim impact statement at disposition hearings, and 25 states allow victims to attend the disposition hearing.[29] Some of these states, however, only recognize these rights in cases involving offenses that would be considered felonies if committed by adults.[30]

In the important area of plea consultation, by 1995, only 16 states had extended the right to victims of juvenile offenders to receive an explanation of or consultation about plea agreements.[31] While protection from intimidation and harm remains important, laws in only 15 states establish the right of victims to be notified of juvenile offenders' bail and predisposition release.[32] Texas has addressed this problem by passing a statute that gives victims the right to have the court consider their safety when determining if a juvenile should be detained prior to adjudication.[33]

By 1997, eight states had raised victims' rights in the juvenile system to constitutional status. Alaska, Idaho, Missouri, Oregon, and South Carolina have included victims of juvenile offenders in their victims' rights constitutional amendments, and Arizona, Oklahoma, and Utah have authorized legislative extension of victims' constitutional rights to juvenile proceedings.[34]

At the national level, juvenile crime and victimization received considerable attention in the 1990s. In 1991, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) of the U.S. Department of Justice released a nationwide evaluation of juvenile justice-based victim service programs, *Helping Victims and Witnesses in the Juvenile Justice System*, which served as an important early roadmap for federal action.[35] OJJDP also sponsored, in cooperation with the American Probation and Parole Association, the development of juvenile restitution programs, policies, and procedures.

In 1994, the Victims Committee of the American Correctional Association issued a report on victims of juvenile offenders, which found that the majority of victims' rights statutes enacted up to that time did not include protections for victims of juvenile offenders and that most state juvenile codes were silent about victims.[36] In 1996, crime victims' rights and services within juvenile justice systems were elevated to national importance with the release of the *National Juvenile Action Plan*, a comprehensive strategy to address juvenile violence, victims of juvenile offenders, and the juvenile justice system.[37] The document, developed by the Coordinating Council on Juvenile Justice and Delinquency Prevention, chaired by Attorney General Janet Reno, with extensive input from the Office for Victims of Crime, called for the expansion of victims' rights and services within juvenile justice systems.

While much has been accomplished for victims of juvenile offenders through state and federal action to reform the juvenile justice system, much remains to be done. Not only are rights for victims within the juvenile justice system inconsistent nationwide, many are not enforced. According to the National Victim Center, which conducted an in-depth review of victims' rights within the juvenile justice system, "most of the rights for victims of juvenile offenders should more accurately be called suggestions, or recommendations, as they are only advisory in nature."[38] As additional laws are enacted across the nation, enforcement of victims' rights in the juvenile justice system must be made as great a priority as it is in the adult criminal justice system.

Recommendations From the Field for Victims' Rights

A global challenge issued by the field that serves as the foundation for every recommendation in this section is that **consistent, fundamental rights for crime victims should be implemented in federal, state, juvenile, and tribal justice systems, as well as in administrative disciplinary proceedings, including military hearings.**

The rights described in this section are among the most significant recommendations in *New Directions*. While victims' rights have been enacted in states and at the federal level, they are by no means consistent nationwide. All too often they are not enforced because they have not been incorporated into the daily functioning of *all* justice systems and are not practiced by *all* justice professionals. Moreover, most systems lack enforcement mechanisms, leaving crime victims without adequate legal remedies to enforce their rights when they are violated.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #1

The U.S. Constitution should be amended to guarantee fundamental rights for victims of crime. Constitutionally protected rights should include the right to notice of public court proceedings and to attend them; to make a statement to the court about bail, sentencing, and accepting a plea; to be told about, to attend, and to speak at parole hearings; to notice when the defendant or convict escapes, is released, or dies; to an order of restitution from the convicted offender; to a disposition free from unreasonable delay; to consideration for the safety of the victim in determining any release from custody; to notice of these rights; and to standing to enforce them.[a]

A federal constitutional amendment for victims' rights is needed for many different reasons, including: (1) to establish a consistent "floor of rights" for crime victims in every state and at the federal level; (2) to ensure that courts engage in a careful and conscientious balancing of the rights of victims and defendants; (3) to guarantee crime victims the opportunity to participate in proceedings related to crimes against them; and (4) to enhance the participation of victims in the criminal justice process. A victims' rights constitutional amendment is the only legal measure strong enough to rectify the current inconsistencies in victims' rights laws that vary significantly from jurisdiction to jurisdiction on the state and federal levels. Such an amendment would ensure that rights for victims are on the same level as the fundamental rights of accused and convicted offenders. Most supporters believe that it is the only legal measure strong enough to ensure that the rights of victims are fully enforced across the country. They also believe, however, that the efforts to secure passage of a federal constitutional amendment for crime victims' rights should not supplant legislative initiatives at the state and federal level.

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[a] On June 25, 1996, President Clinton announced his support for a victims' rights amendment to the Constitution. The President did not endorse any particular language, but made clear that any amendment should establish several rights, including the right: (1) to be notified about public court proceedings and not to be excluded from them; (2) to be heard, if present, regarding bail, sentencing and the acceptance of a plea; (3) to be told about parole hearings and to attend and speak at such hearings if present; (4) to notice of a defendant's release or escape; (5) to appropriate restitution; (6) to input concerning conditions of confinement and release to protect the victim from the defendant; and (7) to notice of their rights. At a June 1997 hearing before the U.S. House of Representatives Judiciary Committee, Attorney General Janet Reno testified to the Administration's belief that the victims' rights amendment must not erode defendants' fundamental protections. The Attorney General further testified that this goal can be achieved most effectively by including express language to that effect in the amendment.

Granting victims of crime the ability to participate in the justice system is exactly the type of participatory right the Constitution is designed to protect and has been amended to permanently ensure. Such rights include the right to vote on an equal basis and the right to be heard when the government deprives one of life, liberty, or property.

While the Justice Department has not endorsed specific language for a victims' rights constitutional amendment, the importance of extending constitutional rights to crime victims has been strongly supported by Attorney General Janet Reno. In August 1996, she stated:

> [It] is clear to me that the best way to secure consistent and comprehensive rights for victims is by including those fundamental rights within the U.S. Constitution. . . . What victims want is a voice, not a veto, in our criminal justice system. Today, victims' rights vary significantly from state to state. The federal government, adult and juvenile justice systems, and the military all provide different rights for victims. Victims' rights should not depend upon the state in which they live, whether the crime is federal or state, or whether it occurs on a military base or in Indian country. Fundamental rights for victims should apply in every forum.[39]

The Attorney General reiterated her support for a victims' rights constitutional amendment in testimony before the Senate Judiciary Committee on April 16, 1997, and before the House Judiciary Committee on June 25, 1997.

While the vast majority of national victims' organizations and a number of other groups including the National Governors Association, the American Correctional Association, and the Victims' Committee of the International Association of Chiefs of Police favor a victims' rights constitutional amendment, some victims' organizations and civil rights and civil liberties groups do not support such an amendment.[40] Many of these organizations believe that such an amendment would undermine the rights of the accused, particularly the right to due process, and that reforms should be achieved through statute rather than constitutional amendment. Organizations that advocate for battered women have expressed concern that victims of domestic violence who are tried as offenders may be disadvantaged by a victims' rights constitutional amendment. In addition, judges have raised concerns over the potential increase in federal court supervision of state court activities, and prosecutors and other justice officials have expressed concerns, including that they do not have the resources to implement victims' rights laws in cases involving large numbers of victims.

Advocates for a victims' rights constitutional amendment respond to these concerns by indicating that they are not proposing that victims' rights be given more weight than the rights of the accused. Rather, they want victims' rights to be given equal weight which would require courts to engage in a careful and conscientious balancing of the rights of both. They note that many judges across the country routinely bar victims of violent crime from attending the trials of the individuals accused of committing those crimes and do not consider whether prohibiting attendance actually would violate the defendant's right to due process. In addition, a victims' rights constitutional amendment is needed to ensure that courts do not determine that victims' statutory rights are automatically trumped by defendants' federal constitutional rights.

> *It is our hope that putting victims' rights in the same document which guarantees the rights of the accused and convicted offenders, that they will not be subject to violation at will, nor subject to changing political winds. It is our hope that victims' rights will be taken just as seriously, and treated with as much respect, as the rights of the accused.*
>
> **David Beatty,**
> **Director of Public Policy,**
> **National Victim Center**

Proponents of a federal amendment also note that while states' victims' rights statutes and constitutional amendments have led to positive reforms, states have failed to implement state statutory and constitutional rights for victims in significant numbers of cases. In the mid-1990s, the National Victim Center, under a grant from the National Institute of Justice, studied implementation of victim rights laws in four states.[41] Two states were selected because they had strong state statutory and constitutional protection of victims' rights, and two were selected because they had weaker protection. The study surveyed more than 1,300 crime victims and was the largest of its kind ever conducted. It found that many victims were still being denied their rights, even in states with strong legal protection.[42] It concluded that state protections alone are insufficient to guarantee the provision of victims' rights.[43]

Key findings of the study included:

- Nearly half of the victims, even in the two states with strong protection, did not receive notice of the sentencing hearing—notice that is essential for victims to exercise their right to make a statement at sentencing.
- While both of the states with strong statutes had laws requiring that victims be notified of plea negotiations, and neither of the weak protections states had such statutes, victims in both groups of states

were equally unlikely to be informed of such negotiations. Laws requiring notification of plea negotiations were not enforced in nearly half of the violent crime cases included in the study.

- Substantial numbers of victims in states with both strong and weak protection were not notified of other important rights and services, including the right to be heard at bond hearings, the right to be informed about protection against harassment and intimidation, and the right to discuss the case with the prosecutor.[44]

National victims' organizations have reported several cases that illustrate how easily victims' statutory rights can be violated in the judicial process. In one case, a woman and her family were injured by a drunk driver. The defendant was charged with a felony. The woman told the prosecutor she wanted to provide a victim impact statement in open court, a right secured by the state's victims' bill of rights. The judge denied her request, citing his "busy docket."

Many victim advocacy groups believe that a federal constitutional amendment is needed to increase the involvement of victims in judicial proceedings. Today, many victims do not report crime or participate in the criminal justice system for a variety of reasons, including fear of revictimization by the system and retaliation by the offender. Victims will gain confidence in the system if their rights are recognized and enforced, their concerns for safety are given serious consideration, and they are treated with dignity and respect.

> *When my 16-year-old son was killed by a drunk driver, I wasn't allowed to give a victim impact statement or to tell the judge how the death of my child had affected our family. But the defendant brought a parade of witnesses on his behalf. Our forefathers recognized that as the times changed, so would the Constitution—and indeed it has. A time came for slavery to be abolished—and the Constitution was amended to assure it. A time came for women to vote—and the Constitution was amended to assure it. The time now has come for victims of crime to have a balanced voice with those of their offenders, and the United States Constitution must be amended to ensure it.*
>
> Katherine Prescott, former National President, Mothers Against Drunk Driving

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #2

Crime victims should have the right to notice of public court proceedings, including pretrial release hearings, plea agreements, sentencing, appeals, and appropriate postconviction release proceedings such as probation and parole hearings. Victims should also have the right to notice of any significant change in the status of defendants and to receive timely notice, upon request, of inmates' temporary or permanent release, or inmates' escape or death.

The right for crime victims to be notified about public court proceedings in a timely fashion is fundamental to their exercise of other rights such as the right to be present and heard. Without timely notification of proceedings, victims cannot exercise other participatory rights.

The 1982 Task Force on Victims of Crime recommended legislation and policies to ensure that victims are furnished case status information, prompt notice of scheduling changes for court proceedings, and prompt notice of defendants' arrest and bond status. Fifteen years later, many states, but not all, have adopted laws requiring such notice. While the majority of states mandate advance notice to crime victims of criminal proceedings and pretrial release, many have not implemented mechanisms to make such notice a reality. Procedures for notification, if defined at all, vary widely. Some states require immediate notice of a defendant's pretrial release. Others only provide victims with a telephone number to call to find out whether the arrested defendant has been released.

> *For three years I was a victim of domestic violence, including being kidnapped, and raped. I consider myself a 'fortunate victim' as a conviction put the perpetrator in prison for many years. My concern at this point is his coming release. Upon his release my entire life will change. I hope and pray to remain stable...*
>
> **A survivor of domestic violence**

Many states do not require notification to victims of the filing of an appeal, the date of an appellate proceeding, or the results of the appeal. Also, most do not require notification of release from a mental facility or of temporary or conditional releases such as furloughs or work programs.

Some state laws require that notice be made "promptly" or within a specified period of time. Both prosecutors and victims often complain that in many instances the time between the scheduling of a hearing and the date of that hearing is too short to give victims adequate notice. Victims also complain that prosecutors do not inform them of plea agreements, the method used for disposition in the overwhelming majority of cases in the United States criminal justice system. Many state victims' rights laws do not require this type of notice.

Many states require victims to request notice, and most require victims to maintain a current address and telephone number on file with the notifying agency. In such cases, efforts should be made to establish a system whereby a single request will entitle victims to notice throughout the criminal justice process. Similarly, victims should be required to keep their addresses current with one agency that would serve as a central source of information for other officials within the criminal justice system. The most effective means of implementing this recommendation is to establish a centralized case tracking system that allows all relevant agencies to both access and update victim notification files, which would then be incorporated on secure, confidential screens. Victims could request notice and maintain contact information with all agencies by notifying only one agency.

Notification of victims when defendants or offenders are released can be a matter of life and death. Around the country, there are a large number of documented cases of women and children being killed by defendants and convicted offenders recently released from jail or prison. In many of these cases, the victims were unable to take precautions to save their lives because they had not been notified of the release. Notice of release is an essential part of a victim's right to reasonable protection, a fundamental right described more fully in Recommendation 6.

Today, some communities use automated voice response technology to notify victims of release information, including systems that phone victims repeatedly until they are reached. Other jurisdictions are implementing victim notification systems that combine several technological solutions.

Georgia's law requires officials to notify a stalking victim by telephone before an offender is released, or, if such notice cannot be made, to call the victim at least twice in no less than 15 minute intervals within 1 hour of the offender's release.[45] The court is also responsible for notifying victims of bail hearings by telephone.

The nation's largest offender release notification system was recently implemented in New York City, where 133,000 inmates are released annually from city jails. Any victim with access to a telephone can register for notification simply by calling a number and providing an inmate's name, date of birth, and date of arrest, or the inmate's state identification number. When the inmate is released or transferred from custody for any reason, the victim receives periodic telephone calls for 4 days or until the victim confirms receipt of the notification by entering a personal code. The police, local prosecutors, victim assistance providers, and local hotline staff have all been trained to explain the system and to encourage victims and intimidated witnesses to use it. Other systems in operation around the country allow victims and members of the public to determine the status of any incarcerated offender by calling an automated telephone information system.

Technology offers increasingly powerful tools for providing immediate notification to large numbers of crime victims through the Internet, televised press conferences, and community meetings when victim contact information is limited or when usual procedures are impractical. The Illinois Department of Corrections website allows victims to track the status and location of all inmates 24 hours a day, 7 days a week. Similar approaches are being developed in Ohio and Missouri. During the cases concerning the bombing of the Alfred P. Murrah Federal Building, prosecutors and victim-witness coordinators held several highly publicized meetings in the community for victims who wanted updated information and an opportunity to interact with prosecutors and other staff members. Representatives of prosecutors and victims organizations should meet to discuss protocols for ensuring appropriate notification in cases involving hundreds of victims, not only in cases of massive criminal violence, but also in white collar crime cases such as telemarketing fraud.

Our world is clearly hurtling into the next century at a rapid pace. New technologies are on the street that were unimaginable only a few years ago. Criminal justice practitioners have to be able to tap into these advances to ensure an effective and efficient response to violent crime and to respond to an increasing offender population. Indeed, we must all become part of the technological revolution that is changing our lives, our workplaces, and our world.

Laurie Robinson, Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #3

Federal and state laws should be strengthened to ensure that victims have the right to be present throughout all public court proceedings.

The right of crime victims to attend proceedings is fundamental and essential to the meaningful exercise of the other participatory rights described in this report. Notice of proceedings means little if the victim must remain outside the court or hearing room while the proceedings take place.

The most common justification for denying a victim's right of attendance in court is the need to keep them sequestered as potential witnesses. There can be no meaningful attendance rights for victims unless they are generally exempt from this rule. Just as defendants have a right to be present throughout the court proceedings whether or not they testify, so too should victims of crime. Moreover, the presence of victims in the courtroom can be a positive force in furthering the truth-finding process by alerting prosecutors to misrepresentations in the testimony of other witnesses.

The legitimacy of victim attendance has been recognized in a number of states that provide that victims should not be subjected to court exclusion if they are potential witnesses, or in states where laws have been enacted that generally recognize an essentially unqualified right for victims to be present at these proceedings.[46] A number of states provide that crime victims should have the right to attend every proceeding that the defendant has the right to attend[47], or that victims be sequestered only on the same basis by which defendants are sequestered.[48] Louisiana deals with the sequestration issue by providing that victims must testify first and thereafter may attend the proceedings. Alabama allows victims to sit at the prosecutor's table during trial.[49] Statutes to give victims the right to attend proceedings should be adopted in more states, extended to the juvenile justice system, and strengthened and clarified in states that already purport to provide that right. In many states, the right to attend and be heard often attaches to "all crucial proceedings," with no clear definition of which proceedings are covered by the statute.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #4

Prosecutors should provide victims an opportunity for meaningful consultation prior to major case decisions such as dismissal,

reduction of charges, or acceptance of plea agreements. Judges should not accept plea agreements without first asking prosecutors on the record if they have consulted the victim, and judges should take the views of the victim into account before making a final sentencing decision. Special procedures should be developed for cases involving multiple crime victims, such as acts of mass violence, massive antitrust or telemarketing cases, where consultation may be difficult.

Many states give victims a right to consult with prosecutors. The most common of these laws require prosecutors to consult with victims prior to accepting plea agreements.[50] Others require prosecutors to consult with victims prior to dismissing charges,[51] declining prosecution,[52] or making other disposition decisions.[53] State laws also compel consultation with victims prior to trial.[54]

Some states extend the right to consultation to victims in juvenile cases.[55] In addition, legislators have attempted to address victims' lack of knowledge about the justice system by requiring prosecutors to provide explanations of procedures and dispositional decisions in nontechnical language.[56] Typical are the Nebraska statutes requiring consultation "regarding the content of and reasons for the plea agreement."[57] Louisiana goes further by giving victims the right to retain private counsel to confer with the prosecution regarding disposition.[58]

Enforcing victims' right to consultation, however, is another matter. Some states specifically require prosecutors to consider the recommendations of victims when making diversion decisions. Other states require prosecutors to confirm their consultation with the victim before a plea agreement may be accepted. In these states, prosecutors must state on the record that the victim was notified and the plea discussed, or explain why consultation was not possible.[59]

Lack of communication about a proposed plea agreement continues to be one of the highest sources of victim dissatisfaction with the criminal justice system.[60] Victims should have the opportunity for meaningful consultation with the prosecutor at the plea agreement stage or prior to the dismissal of charges. While victims should not have the ability to veto prosecution decisions in a case, they should have a voice.

Victims' rights laws should recognize that cases involving large numbers of victims may call for exceptions to the requirement for victim consultation. This recognition should not, however, excuse prosecutors from their obligation to use any appropriate and reasonable means of consulting with victims. In the Alfred P. Murrah Federal Building bombing case, which involved hundreds of crime victims, prosecutors held widely publicized community meetings to give victims numerous opportunities for consultation. Representatives of prosecutors and victims organizations should meet to develop a protocol for ensuring appropriate consultation in cases involving numerous victims.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #5

Crime victims should have the right to be heard in major court proceedings including pretrial release hearings, bail hearings, at sentencing, and before the disposition of plea agreements, probation, parole, and commutation. Input should be permitted through both allocution and submission of written, videotaped, or audiotaped statements.

In recognition of the special safety risks victims face when offenders are released, some states have also passed laws granting victims the right to attend and participate in pretrial release hearings. Many legislatures have adopted laws allowing judges to consider the risks offenders pose to the community in general and to individual victims when ruling on their release.[61] Maryland has taken the concept one step further by passing a law that establishes a rebuttable presumption that those accused of violent crime constitute an inherent danger to other persons or to the community at large.[62] Allowing the victim to be heard on the issue of pretrial release helps to inform the court about the degree of danger posed by a defendant.

I don't believe half of the American population or even a small portion knows what can happen to you when you are a victim of a crime going through the criminal justice process.

A victim

Because most criminal cases are resolved through negotiated pleas, the right of victims to be heard by judges before a plea is accepted is essential to meaningful participation in the justice process.

In sentencing proceedings, convicted offenders traditionally have been given the right of allocution, while their victims have not. While all jurisdictions have adopted rights for victim input, not all states permit allocution, an oral statement provided in court by the victim or his or her representative. In addition, the right of victims to provide impact statements has not been extended to all victims, including those in the juvenile justice system. These shortfalls in existing laws must be corrected.

States should consider adopting the use of vertical impact statements and include them in criminal and juvenile case files at the outset. When necessary, victims should be allowed to update these statements to record the impact of victimization as time passes. While the right to be heard at sentencing is well-established, statutes allowing victim input at other stages of the justice process are just now gaining prominence. A few states provide that victims may make a written statement at the outset of the case; the statement then remains in the file for the court's consideration throughout the criminal justice proceedings. Victims should also have the right to submit audio- or videotaped statements, or statements via teleconferencing, particularly in parole and other postsentencing hearings, when appearing in criminal or juvenile justice proceedings would create a physical, emotional, or financial hardship for victims or put their safety at risk.

Crime victims' rights laws strive to give victims' standing in the criminal justice system, which is all about them, but has traditionally been without them.

State Senator William Van Regenmorter, Chairman of the Judiciary Committee, Michigan Senate

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #6

Victims and witnesses of crime should have the right to reasonable protection, including protection from intimidation. The safety of victims and witnesses should be considered in determining whether offenders should be released from custody prior to completing their full sentence.

The right to protection from intimidation, harassment, and retaliation by offenders and the accused is becoming a major focus of public and law enforcement attention. Justice officials report an increase in the harassment and intimidation of witnesses, making it increasingly difficult to obtain convictions because crime victims and witnesses are afraid to testify.[65] Legislatures have attempted to address this problem by mandating "no contact" orders as a condition of pretrial or posttrial release. In addition, victims' bills of rights generally require victims to be notified at the outset of the judicial process about legal action they can take to protect themselves from harassment and intimidation.

Harassment or intimidation of a victim or witness by a defendant or convicted offender should result in automatic revocation of pretrial or supervised posttrial release, and should be considered an aggravating factor in sentencing. Such violations should be charged and prosecuted under relevant antiharassment, intimidation, and stalking laws. Any punishment imposed for the separate crime of intimidation should run consecutively after the sanction for the original crime. All protective orders, including those issued as a condition of release, should be maintained in a central, automated database that can be accessed by law enforcement and other justice officials throughout the country. Violations of protective orders should be taken seriously, swiftly sanctioned, and enforced not only within states but across state lines in accordance with current federal law.

Courts must have clear authority to detain defendants whose danger to victims or others cannot be controlled adequately by other means. Retaliation against a victim or witness when an offender is sentenced to probation or released on parole should result in revocation of that release.

States should also increase security in the courthouse to reduce the likelihood of violence when offenders and victims come into contact before, during, and after justice proceedings. Waiting areas for victims should be separate from those for defendants. Victim awareness education should be required for corrections, parole, and probation officials to increase their understanding of the dangers victims face and to help them communicate with victims about their concerns for safety.

These needs have been met in varying degrees by the states. Many states have enacted laws requiring courts to establish separate and secure waiting areas to protect witnesses and victims waiting to testify from contact with a defendant or his family and friends.[64] Many states have established specific offenses for the harassment of victims and witnesses[65] and made harassment grounds for bail revocation and reincarceration.[66] Some state legislatures have provided that victims need not submit to defense counsel requests for interviews or contact prior to trial.[67] At least 30 states have taken steps to limit or control face-to-face confrontations at parole hearings by holding separate proceedings for offenders and victims, permitting victims to testify outside the presence of the offender, including outside the prison setting, and teleconferencing offenders into parole hearings at which only parole officials and the victim are present.[68]

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #7

Orders of full restitution for crime victims should be mandatory. Restitution orders should be automatically entered as civil judgments at the end of the offender's supervisory period if not paid. Alternatively, legislation could be enacted giving judges and paroling authorities jurisdiction for enforcing restitution orders until they are fully paid.

Restitution is one of the most significant factors influencing victim satisfaction with the criminal justice process.[69] While restitution has always been available via statute or common law, it remains one of the most underutilized means of providing crime victims with a measurable degree of justice. In part, this neglect led the President's 1982 Task Force to call for mandatory restitution in all criminal cases unless the presiding judge can offer compelling reasons why restitution should not be ordered.[70] More than half of the states (29) passed laws in response to this recommendation by the end of 1995.[71] The exceptions permitted in state restitution laws vary considerably from state to state. South Carolina's statute requires that "compelling and substantial" reason be given for not ordering restitution, while courts in West Virginia need only show that restitution would be impracticable.[72] In 1996, Congress made restitution mandatory in federal criminal cases involving violent crimes with the enactment of the Mandatory Victim Restitution Act, Title II of the Antiterrorism and Effective Death Penalty Act.[73]

Historically, only persons who have suffered physical injury or financial loss as a direct result of crime have been eligible to receive restitution for out-of-pocket expenses. But as restitution statutes have evolved, definitions of who qualifies and the losses covered have broadened. Today, in some states, family members, victims' estates, and victim service agencies and private organizations that provide assistance to victims are eligible for restitution.[74] Definitions for compensable losses under state restitution laws have broadened as well. They now include the costs of psychological treatment, sexual assault exams, HIV testing, and occupational or rehabilitative therapy, as well as lost profits, moving and meal expenses, case-related travel expenses, and burial expenses.

Judges should be encouraged to order full restitution, which can be more effectively enforced through recent legislative innovations. Offenders who willfully fail to pay risk being held in contempt, imprisoned, or having their parole or probation extended or revoked. In some states, authorities are authorized to seize financial assets and property to satisfy restitution orders. Other states allow restitution orders to be enforced as civil judgments at the time of the order or at the end of the offender's supervisory period. During incarceration, prison wages, inheritances, federal and state income tax refunds, and lottery winnings should be automatically attachable. Moreover, probation and parole officials must be provided the motivation and means to administer restitution collection, and both must play an active role in enforcing orders when offenders refuse to pay. (For more information on restitution, see Chapter 15.)

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #8

Victims should have the right to disposition of proceedings free from unreasonable delay.

One of the greatest hardships victims endure in the criminal justice process is the delay of scheduled proceedings. Just as defendants have the right to a speedy trial, so too should crime victims. Repeated continuances cause serious hardships and trauma for victims as they review and relive their victimization in preparation for trial, only to find the case has been postponed. Delays are sometimes used as a defense tactic. As a case drags on, witnesses move away, die, give up in frustration, or lose clear recollections of the facts. The impact of continuances is particularly difficult for victims whose memories may fade over time or whose health may deteriorate.

The schedule and concerns of victims should be taken into consideration by judges before they grant continuances. A disposition free from unreasonable delay helps to ensure that victims as well as defendants receive speedy trials and that the impact of delay on victims is considered by judges in response to requests for continuances. Several states have already adopted such standards as law. As of 1996, 12 states gave crime victims a constitutional right to a speedy trial or prompt disposition of proceedings. At least 13 others have enacted statutes to give victims such a right or to ensure that their interests are considered in rulings on continuances.[illegible]

> *The vision of America died at 9:02 a.m., April 19, 1995. Everyone feels so personally violated here. We have a single mission. The goal is to go from victim to survivor.*

Jim Horn
FBI Agent, Retired
Behavioral Sciences Unit
Quantico, Virginia
Comments following the
Alfred P. Murrah Federal
Building bombing,
Oklahoma City, Oklahoma

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #9

All crime victims should have the right to a full range of services and support to help them recover physically, psychologically, and in practical ways from the effects of crime, whether or not they report the crime or become involved in related criminal prosecutions or juvenile adjudications.

In the aftermath of victimization, victims may have many different needs. Victims who report crime need information, assistance and protection when they choose to participate in the criminal and juvenile justice process. Not only should victims have the right to be heard or consulted in decisions that affect them, but they should receive protection if they are witnesses and transportation to and from legal proceedings.

Victims respond differently to their experiences. Some victims may be reluctant or unwilling to report the crimes committed against them and may fear involvement in the justice system. For example, some battered women may be too frightened to report violent incidents to the police. Sexual assault victims fear the loss of privacy in coming forward to report the crime. Other victims distrust law enforcement agencies, and immigrants who become victims sometimes fear deportation.

Regardless of whether they report the crime, many victims need emergency and ongoing services such as health care, shelter, lock replacement, cash assistance, social and community services and support, mental health counseling, victim compensation, child care services, referrals to support groups, translators, and transportation. Chapters 6 and 14 address these issues in greater detail.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #10

Crime victims should have fundamental rights that are enforced in all juvenile justice proceedings.

Traditionally, juvenile justice systems have been cloaked in secrecy. Victims have had limited rights within those systems, which were designed years ago to protect the confidentiality of juvenile offenders. Although some state victims' bills of rights and constitutional amendments include rights for victims of juvenile offenders, most states have extended only selected rights to these victims. Moreover, victims' rights enacted on the federal level do not apply to victims of juvenile offenders. The participation of victims in juvenile justice proceedings is important because it recognizes the impact of the crime on victims and encourages young offenders to consider the personal impact of their offenses. Putting a human face on the results of their destructive behavior helps offenders take responsibility for their actions and deters future crime.

The rights of victims of juvenile offenders should mirror the rights of victims of adult offenders. Victims of juvenile offenders'should receive information and notification about the status of the case and the offender from the point of arrest through the juvenile corrections system. Victims of juvenile offenders are frustrated by their chronic inability to access vital information about their case due to confidentiality restrictions. Confidentiality protections for juvenile offenders which preclude victims from receiving vital information must be lifted.

Victims of juvenile offenders should have the right to provide input through victim impact statements. While all states now allow victim impact statements at sentencing in the criminal justice system, only

28 states had extended this right to victims of juvenile offenders as of 1995.[76] Without victim impact information, the financial, physical, and emotional injuries of crime cannot be considered when determining adequate restitution or appropriate sentencing.

Victims of juvenile offenders should have the right to restitution, and states should aggressively pursue collection and disbursement of such awards. Restitution is underutilized for victims of juvenile offenders. Restitution has two important benefits. It compensates the victim for losses suffered as a result of the juvenile's behavior, and it holds the juvenile accountable for the damages he or she has caused. Forty-six states have statutory authority to order juvenile offenders to pay restitution.[77] Some states make juveniles and their parents jointly responsible for damages in a civil action or restitution. The majority of the statutes place limits on the amount of damages or restitution that can be ordered.[78] Nonetheless, this important right is underutilized. A 1991 nationwide study found that only 17 states collect restitution from juvenile offenders, and only 13 state juvenile corrections agencies disperse the restitution to victims.[79]

Finally, victims of juvenile offenders should have the same right to reasonable protection they would have enjoyed had the offender in their case been older. Half of the states give victims of adult offenders the right to be reasonably protected from the offender during the criminal justice process, while this right in most cases is not extended to victims of juvenile offenders. Given the increase in violent crimes by juveniles,[80] the need for protection is plainly present.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #11

All criminal and juvenile justice agencies, including courts, as well as victim assistance programs, should help ensure that victims receive information about their rights in a form they understand.

Justice system and allied professionals who come into contact with victims should provide an explanation of their rights and provide written information describing victims' rights and the services available to them. Furthermore, rights and services should be explained again at a later time if the victim initially is too traumatized to focus on the details of the information being provided. Explanations of rights and services should be reiterated by all justice personnel and victim service providers who interact with the victim.

To provide this critical information, justice and allied professionals need specialized training on the most effective communication techniques to use with victims, including child and elderly victims, victims who do not speak English, victims from diverse cultures, and victims with disabilities, including those who are blind or deaf or who have cognitive or developmental disabilities. Brochures describing victims' rights and services should be developed in the languages used by crime victims in each community, and all brochures and critical victim information written in English should include a sentence offering the literature in other languages as needed. Special provisions should be made for communicating with victims who are blind or visually impaired using audiotapes, special computer disks, Braille, or other communication technologies. Service providers should be trained to use sign language interpreters and TDD technology to communicate with victims who are deaf or hard of hearing.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #12

Victims of crime should receive assistance in exercising their participatory rights. Advocates should be available to explain rights to victims, help them to exercise those rights and, when necessary, serve as their representatives in court and other key justice processes when victims are underage or incapacitated or if representation is otherwise appropriate.

One of the greatest barriers to victims participating in justice proceedings is their not having the means to do so. Many victims cannot afford to pay for parking, child care, or time off from work. Others do not have the resources to cover transportation costs to courts, especially if the trial or hearing is held outside their community. In these cases, every effort should be made to facilitate victim participation by providing special services such as child care, or paying for transportation and lodging expenses. For example, in the Alfred P. Murrah Federal Building bombing cases, government and non-profit agencies and the private sector formed a partnership to provide funding for victim travel expenses after the trial was moved from Oklahoma City to Denver, Colorado in 1997. In addition, the court in Denver set up a closed-circuit television communication in Oklahoma City to allow victims there to view the proceedings in Denver. New uses of technology should be considered to provide access to trials and other proceedings for victims who are physically unable to attend them. Furthermore, more consideration must be given to the tremendous diversity among victims in the design and delivery of victim services.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #13

States should review their victims' rights statutes and constitutional amendments to determine if fundamental rights are extended to all crime victims.

Victims' rights in many states apply only to a special "class" of crime victims—victims of felonies. Many serious domestic violence and drunk driving cases prosecuted as misdemeanors are thus not covered by victims' rights statutes. States should consider extending victims' rights in all cases, regardless of their classification as felony or misdemeanor or violent or nonviolent.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #14

States that have not already done so should adopt truth in sentencing reforms to ensure that victims know how long offenders will actually be incarcerated.

Under traditional sentencing practices in most jurisdictions, release dates for offenders were set by parole authorities, and the actual periods of incarceration served by offenders had little relationship to the prison terms specified in criminal sentences. In recent years, many jurisdictions have adopted truth in sentencing reforms to limit or abolish parole and to make the time an offender serves more predictable. In federal cases, for example, parole has been abolished and "good time" credits are limited to 15 percent of sentences, forcing federal offenders to serve at least 85 percent of the sentence imposed in court.[81]

In addition to furthering penal objectives, truth in sentencing reforms serve important interests of victims. Victims as well as the public are entitled to know how long an offender will actually be incarcerated. Victims should not be burdened with the anxiety that offenders will be released prematurely, compelling them to appear repeatedly at postconviction hearings.

> *Why are there laws if they only protect the criminal?*
>
> A crime victim

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #15

Federal and state laws should prohibit employers from taking adverse action against victims who must miss work to participate in the criminal or juvenile justice process.

In his statement endorsing a Victims' Rights Constitutional Amendment on June 25, 1996, President Clinton indicated that "[t]here ought to be . . . in every law, federal and state, a protection for victims who participate in the criminal justice process not to be discriminated against on the job because they have to take time off. That protection today is accorded to jury members; it certainly ought to extend to people who are victims who need to be in the criminal justice process." Without this protection, many workers cannot exercise their fundamental right to participate in justice proceedings. All jurisdictions should adopt the reform proposed by the President, and it should be enacted into federal law.

While protections for jurors are limited, victims should have, at minimum, the same levels of protections as jury members. To the extent possible, employers should be required to work with employees and their unions to ensure that victims maintain their employment after absences due to attendance at criminal and juvenile justice proceedings. Victims should continue to receive salaries or wages, reduced by any witness fees received, for a designated period of time. Afterwards, they should be able to use vacation and sick leave. In addition, judges should be encouraged to take employment concerns of victims and their employers into consideration when scheduling proceedings.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #16

In cases where there is good cause to believe that bodily fluids were exchanged, victims should have the right to be tested and to have the accused or convicted offender tested at appropriate times for the HIV virus and sexually transmitted diseases. State statutes should require these tests to be conducted by specially trained personnel who can advise victims of the reliability, limitations, and significance of the test, as well as HIV treatment options. In addition, laws should specify the agency that will pay for HIV testing and pre- and posttest counseling, as well as treatment for any victims who test positive.

According to the National Victim Center, as of the end of the 1995 legislative session, 44 states had adopted laws providing mandatory testing of sexual offenders in cases involving sexual penetration or other exposure to an offender's bodily fluids. Of those, 16 make testing mandatory before conviction, and 33 require testing after. Six states make testing mandatory both before and after conviction. Twenty-six states have a mandatory testing law that applies to juvenile offenders.[82] In 1990, the Federal Government passed legislation making HIV testing of convicted sexual assault offenders mandatory for states to be eligible for certain prison grants.[83] The Violent Crime Control and Law Enforcement Act of 1994 gives Federal victims of sexual assault the right to obtain an order requiring the defendant to submit to an HIV test, and to obtain the results of that test.[84] It also provides for follow-up testing and counseling.

Typically, pretrial testing of defendants is left to the discretion of the court, which must find that there has been significant exposure and that the health and safety of the victim may be threatened. The court is required to hold a hearing, during which the victim must show that the defendant has been charged with a sexual offense and that the test would provide information necessary to protect the health of the victim and his/her partner(s). Some statutes permit a series of tests at 6-month intervals for up to 2 years to detect viruses that do not show up on initial tests.

When victims have possibly been exposed to HIV, they should be referred to an anonymous testing site that uses the most advanced technologies, guarantees maximum reliability of test results, and provides pre- and posttest counseling regarding transmission of the virus and the testing process. If after receiving pretest counseling the victim wants to determine the offender's HIV status, the offender should be tested as soon as possible, including prior to conviction, with a second test at least 3 months later. Regardless of the decision to test the offender or the test results, victims should be encouraged to be tested to determine their HIV status. Although testing the offender may be important to the victim, it should be emphasized that testing the offender does not replace focusing on the victim's medical and emotional needs. Testing the victim in the immediate aftermath of a victimization will only provide information about the victim's HIV status prior to the crime. If a victim was exposed to HIV during the crime, testing 1 month and then 3 months after the event (or at other times recommended by health authorities) will provide a clearer indication of whether the virus was transmitted by the crime. While there is a relatively low risk of transmission, victims who test positive should be given access to free FDA approved medical treatments of their choice.

Counseling is an essential part of responding to the risk of HIV transmission in a crime. Victims may not understand the latency of the disease, and may not fully appreciate the limited reliability of a negative test result. States frequently require counseling in conjunction with testing, but specifications vary widely from jurisdiction to jurisdiction. In some states, counseling must be provided contemporaneously with the test, as in Maine, where counseling must discuss the nature, reliability, and significance of the test, as well as its confidential nature.[85] In contrast, other states such as Michigan simply require that the agency notifying the victim of the results of the test also refer the victim to counseling.[86] Oklahoma specifies that the victim receive counseling before and after the test.[87] Florida requires the testing agency to afford "immediate opportunity for face-to-face counseling" when the results are revealed to the victim.[88] In some states, the statute fails to provide for counseling.

Most laws require confidentiality of test results, but advocates still report problems with insurance companies that, upon learning of the victim's HIV test or results, raise health insurance premiums or cancel the victim's policy altogether. Minnesota has enacted a law to prohibit such practices.[89] Wisconsin's law provides that the results of a test ordered by the court will not become part of a person's permanent medical record. States should enact legislation to protect victims from such practices.

> *It is essential to recognize the impact of crime on a neighborhood and to give residents the information and means to get involved.*
>
> United States Attorney
> Thomas Schneider,
> Eastern District of Wisconsin

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #17

State and federal laws should allow, and criminal and juvenile justice agencies should facilitate, community impact statements as a means for members of a neighborhood or community that has been impacted by crime to have input into sentencing.

In many cases, neighborhoods and communities as well as individuals are victims of crime. This is especially true in drug, gang, and prostitution cases where criminal activity endangers and degrades entire neighborhoods, affecting property values and quality of life issues. A few prosecutors have pioneered the use of community impact statements, which are, in effect, an expanded version of the victim impact statement. For example, as noted in Chapter 3, the District Attorney for Milwaukee, Wisconsin and the United States Attorney for the Eastern District of Wisconsin notify members of the community when drug arrests are made and encourage them to become involved in the criminal proceedings by submitting impact statements. These offices inform residents in affected neighborhoods of arrests and trial dates and coordinate outreach efforts in concert with probation agencies to help them prepare their statements. To encourage this important type of participation in criminal justice proceedings, both state and federal laws should recognize communities as victims and permit this form of input.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #18

Victims should have standing to enforce their rights, and sanctions should be applied to criminal and juvenile justice professionals who deny victims their fundamental rights.

Although more than 27,000 state and federal laws have been enacted to protect and enforce the interests, rights, and services for crime victims, the *consistent* implementation and enforcement of these laws is an area of great concern. Victims report that criminal and juvenile justice officials at times disregard their statutory and constitutional rights, and that they have no legal recourse when their rights are violated. States should enact provisions that give victims measures to enforce their rights when they are disregarded.

While limited legal remedies such as court-ordered injunctions and writs of mandamus are generally available to force criminal justice personnel to comply with the law, states are beginning to pass laws that provide specific statutory remedies and recourse for crime victims. A Maryland statute enables victims of violent crimes to apply for "leave to appeal" any final order that denies victims certain basic rights.[90] Arizona law grants victims the right to challenge postconviction release decisions resulting from hearings at which they were denied the opportunity to receive notice, attend, or be heard. Arizona law allows victims to sue for money damages any government entity responsible for the "intentional, knowing or grossly negligent violation" of the victims' rights.[91]

It is critical that effective measures be available to remedy violations of victims' rights, including authority for the government to obtain redress through applications for mandamus and appeal. The need for this reform in federal proceedings is illustrated by the first trial in the bombing of the Alfred P. Murrah Federal Building, in which the trial court ruled that victims would not be allowed to attend the trial if they wished to be heard at the sentencing stage. On review, the Tenth Circuit Court of Appeals held that victims had no standing to assert their right to be present and that the government could not enforce that right by appeal or by seeking a mandatory order.[92]

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #19

States and the federal government should create compliance enforcement programs, sometimes referred to as victim ombudsman programs, to help facilitate the implementation of victims' rights.

State victims' rights compliance enforcement programs oversee justice officials' and agencies' compliance with crime victims' statutory and constitutional rights and investigate crime victim complaints relevant to those rights being violated.[93] A few states have created such programs within an existing agency or have established a new, state-level oversight authority. In initiating such a program, officials should consider the importance of meaningful remedies and sanctions for noncompliance with victims' rights laws; and ensure that victims, victim service providers, advocacy groups, and victim-sensitive justice professionals are involved in the program planning process. In addition, justice agencies should consider increasing crime or court surcharges to support a compliance enforcement functions, and should evaluate overall compliance enforcement system.

Innovative approaches to victims' rights oversight have been implemented in several states:

- The Minnesota Office of the Crime Victims Ombudsman (OCVO) protects the rights of victims by investigating statutory violations of victims' rights laws and mistreatment by criminal justice practitioners. OCVO is authorized to initiate its own investigation of alleged violations, recommend corrective action, and make its findings public to both the legislature and the press.

- The South Carolina Office of the Crime Victims' Ombudsman is empowered to act as a referral entity for victims in need of services, a liaison between victims and the criminal and juvenile justice systems in the course of their interaction, and a resolver of complaints made by victims against elements of those systems and against victim assistance programs. In addressing complaints, the South Carolina Ombudsman program is not limited to inquiries into violations of specific statutory rights, but may review other conduct that is potentially unfair to victims.[94]

- Colorado has recently enacted a state-level coordinating committee that serves an ombudsman function for victims' rights implementation.[95] The Colorado Victims' Compensation and Assistance Coordinating Committee and its Victims' Rights Act (VRA) subcommittee help victims enforce their rights by overseeing the actions of local government agencies. The subcommittee and full coordinating committee have the power to investigate VRA violations and to recommend action with which an agency must comply to rectify victims' complaints. The two bodies also monitor the implementation of those suggestions and may refer issues of noncompliance to the governor or attorney general.[96]

- Wisconsin has a state-level victims' services office—the Victim Resource Center (VRC)—which provides information and service referrals to victims and acts as a liaison between victims and criminal justice agencies in resolving complaints concerning unlawful or inappropriate agency action. Though it lacks enforcement authority, the VRC protects victims' rights by investigating complaints and presenting its recommendations for corrective action to state criminal justice officials. The Wisconsin legislature is currently debating a measure that would prescribe remedies for violations of victims' rights laws and provide for the enforcement of Wisconsin's victims' rights constitutional amendment.[97]

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #20

Federal crime victims' rights should apply in military proceedings.

The extensive range of information, notification, and participatory rights that have been enacted on the federal level should be fully implemented for victims' rights within military justice proceedings. Some victims' rights established at the federal level are not implemented in military courts. Restitution for victims is frequently ordered as part of sentences for federal crimes, but there is no authority to do so under the Uniform Code of Military Justice.[98] Moreover, the military justice system has failed to adopt "truth in sentencing" reforms and continues to parole offenders, a practice that generally has been abolished in federal criminal cases. The Uniform Code of Military Justice should be amended to make restitution mandatory.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #21

Indian tribes should review their legislation, policies, and court systems to enhance the fundamental rights of Native American victims.

There are 621 federally recognized tribes in the United States; each of these tribes is a separate sovereign with legislative and adjudicatory authority. There are 242 separate tribal court systems, trial and appellate, as well as numerous traditional dispute resolution forums unique to each tribal culture.[99] While many major crimes that occur in Indian country are prosecuted in federal or state courts, tribes retain concurrent criminal jurisdiction over Native American defendants.[100] Moreover, tribal courts are often the sole forum for prosecuting crimes and juvenile offenses involving child abuse and domestic violence.

Tribes should analyze and amend their laws and policies, as well as observe and change procedures of their courts, law enforcement offices, and human services agencies in order to protect and enhance the fundamental rights of Native American victims. Tribes should establish joint tribal-state and federal forums to ensure that Native American victims are not lost in the jurisdictional complications of Indian country. They should also train their leaders, justice personnel, and community members on prevention measures and effective responses to crime in Indian country.

Not withstanding political pressures and lack of economic resources, a number of tribes have successfully implemented crime victims' rights ordinances, mandatory arrest policies for domestic violence, safe houses, community education projects, and an array of culturally appropriate systems for protecting Native American crime victims. Some tribes have included the rights of crime victims in their codes. For example, the Uniform Sentencing Policy of the Courts of the Navajo Nation includes the rights for victims to have input into plea agreements, proposed sentences, and restitution decisions. The Salt River Pima-Maricopa Indian Community Council passed a Children's Bill of Rights, and the Crow Tribal Council developed rights for domestic violence victims that are set forth in its Domestic Abuse Code.

> *From tribal police intervention to tribal court proceedings, the victims of violent crime in Indian country must have rights available to them. They must be informed of their rights, encouraged to exercise their rights, and be protected from further harm. This is the basic responsibility of a tribal criminal justice system.*
>
> Joseph Myers,
> Executive Director,
> National Indian Justice Center

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #22

Victims of crime should have rights at administrative proceedings, including the right to have a person of their choice accompany them to the proceedings, the right to input regarding the sanction, and the right to notification of the sanction.

Agencies and institutions that seek to hold their employees or students accountable for their alleged criminal or negligent behavior often do so through administrative proceedings, including disciplinary hearings on college campuses in sexual assault cases and other crimes that violate college rules. Governmental and private sector organizations also conduct administrative hearings when an employee is accused of misconduct, which sometimes also constitutes a criminal act. These hearings are held to determine whether an employee or student should be dismissed or sanctioned.

Victims often complain about their lack of rights and protections at these hearings. For example, at disciplinary hearings on college campuses and in schools, as well as administrative proceedings when criminal justice personnel are accused of conduct violations, victims are frequently not allowed such fundamental rights as the right to be accompanied by a person of their choice and the right to submit a victim impact statement before the offender is sanctioned. Agencies and institutions should review their disciplinary codes and ensure that fundamental victims' rights are incorporated. In addition, all cases involving criminal conduct should be referred to law enforcement for further investigation.

State laws should be strengthened to ensure that these victims receive appropriate rights. For example, California recently amended its Education Code to provide victims of sexual assault and harassment in public schools with the rights to: be accompanied by a parent or other support person during testimony in disciplinary hearings; adequate notice prior to being called to testify; testify at a hearing closed to the public; and have evidence of irrelevant sexual history excluded.[101] The law also requires school districts to take further steps to provide a nonthreatening environment for child victims by adopting procedures that have become the standard across the country for children who testify as witnesses in other legal proceedings. Support for the law was initiated by the Santa Monica-UCLA Rape Treatment Center after the rape of a 12-year-old middle school student in a Los Angeles school by a fellow student. She had to face the accused attacker, his parents, and his attorney alone during an expulsion hearing.[102]

The *Student Right to Know Campus Security Act of 1990*,[103] and *The Campus Sexual Assault Victims' Bill of Rights*[104] passed by Congress should be fully implemented. These laws should be amended to ensure that the same rights to be informed, present, and heard in criminal proceedings apply equally to disciplinary proceedings in school settings.

Other victims whose rights are woefully overlooked are victims of mentally ill offenders whose cases are adjudicated through an involuntary mental commitment process. Where applicable, these victims should receive the same rights as other victims, including the right to receive notice of release.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #23

Criminal and juvenile justice agencies should establish a means of monitoring their own compliance with crime victims' rights laws and require public documentation showing that victims were provided their rights or indicating an appropriate reason why they were not. In addition, independent audits should be conducted of state and federal agency compliance with victims' rights laws.

Criminal and juvenile justice agencies and institutions should develop and implement policies and procedures to ensure that all crime victims are afforded the opportunity to exercise their rights. Monitoring should be mandatory at all stages of the justice systems. Criminal and juvenile justice agencies should document whether or not crime victims receive notice of and an opportunity to exercise their rights and, if not, why not. Such documentation is a significant step toward holding officials accountable and will enable agencies to monitor their compliance with legal mandates.

Further information is needed about the level of state and federal compliance with victims' rights laws to determine how to improve implementation of these laws. This information should be obtained through independent audits that can evaluate levels of compliance and propose needed reforms to improve the system.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #24

Introductory and continuing education for all criminal and juvenile justice professionals should address victims' rights, needs, and services, and incorporate involvement from crime victims themselves.

To increase compliance with victims' rights laws, states must make education on the rights of crime victims a priority during orientation and continuing education training programs for criminal and juvenile justice officials. Implementing victims' rights remains the responsibility of these officials. They must be educated about the importance of their victim-related responsibilities and sensitized to the critical needs of crime victims.

Training programs for law enforcement officers, prosecutors, and judges, as well as probation, parole, and corrections officials, have been developed and implemented on a broad scale through training and technical assistance grant projects funded by the Office for Victims of Crime. Some institutions responsible for educating and training these professionals are beginning to incorporate victim-related sensitivity training into their permanent curricula. In some states, such training is mandated by statute, but in others, the incorporation of victims' issues is voluntary.[104]

Victim input into such educational programs is critical. Victim impact panels provide a vehicle for victims to tell justice professionals firsthand about the physical, financial, and emotional impact of crime. Developed by Mothers Against Drunk Driving as an educational tool in court-ordered probation programs for DUI offenders, and for youth offenders by the California Youth Authority, they are increasingly being incorporated into numerous types of programs.[106] Moreover, victim sensitivity education and state-of-the-art curricula in victim issues must be included in academia in the fields of health care, medicine, psychology, social work, theology, business, law, and education.

VICTIMS' RIGHTS RECOMMENDATION FROM THE FIELD #25

New funding mechanisms must be developed to support the expansion and implementation of victims' rights and services nationwide.

Since its establishment in 1984, the Crime Victims Fund has provided more than $2 billion to states to help implement victims' rights and services. Additional financial resources are needed at the federal, state, and local levels, however, to ensure consistent, comprehensive implementation of victim rights' laws and the provision of needed services to every crime victim.

While a federal constitutional amendment would provide the legal framework for securing victims' rights, many justice officials and victim advocates believe that the lack of implementation of rights is due in part to inadequate funding. In many places, a lack of funding has had the practical effect of denying victims their basic rights.

One potential new source of revenue on the federal level is funding generated under the False Claims Act, which triples the damages and penalties imposed in civil cases involving fraud against the federal government.[107] In past years, several hundred million dollars have been deposited into the Federal Treasury from judgments rendered in these cases. A significant portion of these funds should be used to ensure that state and federal victims' rights laws are enforced. In addition, provisions should be made to provide needed counseling to "whistle blowers" in these cases because they often suffer serious personal and professional consequences for reporting these crimes.

Another promising source of funding for crime victims is the Federal Racketeer Influenced and Corrupt Organizations Act, referred to as RICO.[108] RICO makes it a federal crime to engage in activities related to a "pattern of racketeering activity" related to the operation of any "enterprise" engaged in, or affecting, interstate commerce.[109] Penalties for violation of RICO include fines up to $25,000 and prison terms up to 20 years, in addition to allowing the government to bring forfeiture proceedings against the organizations and the individuals involved in the organizations. Since the statute also specifically allows victims to bring civil suits in federal civil court for damages up to three times their actual economic damages and attorneys fees, victims (particularly victims of economic crimes such as fraud) should be made aware of

> *Fairly early in the history of the victims' movement, victim 'counselors' were taught that they also had to become victim 'advocates' if their clients were to avoid revictimization by the very institutions that were meant to help them. In time, the advocates were taught that 'case advocacy' was insufficient to ensure that the dignity of crime victims was to be respected—their rights to be heard had to be codified in law. Those who taught us these lessons include legal scholars, mental health researchers, and a host of other thoughtful academics. But most of all it was the victims themselves, against whom palpable injustices were being committed daily, who taught us that providing effective victim assistance is impossible in the absence of effective victim rights.*
>
> John H. Stein,
> Deputy Director,
> National Organization for
> Victim Assistance

their right to bring RICO actions against such offenders. Congress should also consider earmarking RICO fines and forfeitures to benefit crime victims in the same manner as most other federal criminal fines.

States depend on a variety of sources to fund victim assistance programs, and they must communicate more with each other about which strategies have been most successful. Sources of funding include following the VOCA funding formula of criminal fines and penalty assessments; using a portion of license fees such as fees for marriage licenses; incorporating checkoff boxes for donations to victim services on tax forms; inmate fund raisers; dedicating special, one-time legislative appropriations; and incorporating victim services funding into the annual legislative appropriations process.

More than half of the states impose some type of additional penalty assessment or cost as a condition of an offender's sentence to be used to provide funding for general victim services and assistance. Some states attach a nominal $5 or $10 court fee in all cases.[110] Other states take into consideration the severity of the offense or the offender's age, and establish enhanced assessments in relation to such factors.[111] Another group of states bases offender penalties on the other court-imposed fines and penalties, adding on a certain percentage of the fine and/or penalty as a type of surcharge.[112] Still other states use a combination of approaches.[113]

In most states, license fees are used for a specific type of service as opposed to general victim assistance. The most prominent of these are fees attached to marriage licenses which generally are used to fund domestic violence shelters and programs.[114] In other instances, the additional fees for marriage licenses or birth certificates are used for funding of child abuse treatment and prevention.[115] A number of states include income tax designations as an income source for children's trust funds which provide services to abused or neglected children.[116] Michigan estimates the costs of providing crime victims' rights services as well as the estimated revenue available for such services. The legislature is then notified to determine whether an appropriation should be requested.[117]

In Missouri, a special appropriation in 1996 financed the construction of shelters for battered women across the state. Oregon takes a percentage of punitive damages off the top of civil suits to fund victim compensation and assistance programs. States are also exploring creative funding mechanisms such as tapping into lottery money, taxes on tourism, and fees for hunting, gaming, and liquor licenses.

In a survey of state VOCA administrators conducted for this report, a majority responded that establishing a stable, predictable funding base for victims' services was one of the greatest challenges to implementing comprehensive victims' services. Collections under VOCA have been unusually high in the past two years; however, since collections may fluctuate in future years, states must expand their sources of funding to protect and expand the remarkable advances for crime victims made in the past two decades.

On the local level, communities also must begin to fund victim assistance programs. Voters in Washtenaw County, Michigan were the first in the nation to approve a special one-time millage or tax to build and provide funding for a countywide domestic violence shelter. In some communities such as Maricopa County, Arizona, and San Diego, California, private foundations have been established to provide financial compensation to victims as well as to support local victim service programs.

In other communities victim services funds are designated as an "untouchable" portion of the city's budget. In Jacksonville, Florida, city funds are combined with state and federal funds to support a comprehensive victim services center. Local annual funding for the center is currently about $900,000. It includes all of the profits from the county prison's canteen. Center staff screen 2,300 police reports monthly for appropriate outreach and work with 1,400 victims each month, providing a wide range of services. The philosophy of Jacksonville's approach is to establish crime victim services in such a way that victim assistance becomes an essential part of the infrastructure of the community, not an afterthought funded through sporadic or discretionary funding mechanisms.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

Endnotes

1 National Organization for Victim Assistance, *1988 NOVA Legislative Directory*, Washington, D.C.: National Organization for Victim Assistance, 1988:191.

2 *Victim Witness Protection Act of 1982,* Pub. L. No. 97-291, § 4, 96 Stat. 1249 (codified at 18 U.S.C. §§ 1512-1515; Fed. R. Crim. P. 32); President's Task Force on Victims of Crime, *Final Report*, Washington, D.C.: U.S. Government Printing Office, December 1982.

3 Office of Justice Programs, *President's Task Force on Victims of Crime: Four Years Later*, Washington, D.C.: U.S. Government Printing Office, May 1986:4.

4 As of November 1997, victims' rights constitutional amendments have been ratified by voters in the following 29 states: AL, AK, AZ, CA, CO, CT, FL, ID, IL, IN, KS, MD, MI, MO, NE, NV, NJ, NM, NC, OH, OK, OR, RI, SC, TX, UT, VA, WA, and WI.

5 The National Victim Center's Legislative Tracking Database Project has collected, as of May 1996, more than 27,000 federal and state statutes related to the rights and interests of crime victims. The Center utilizes nearly 1,000 victim issue categories and subcategories to catalog the statutes.

6 National Victim Center, *1996 Victims' Rights Sourcebook: A Compilation and Comparison of Victims Rights Laws*, Arlington, VA: National Victim Center, 1997:§ 9 (hereinafter *1996 Victims' Rights Sourcebook*). As of 1995, the following states provide victims a right to attend most criminal justice proceedings: AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, LA, MA, MI, MS, MO, NH, NJ, NM, OH, OK, SC, SD, TX, UT, VA, WA, WI. In November 1996, North Carolina, Oregon and Nevada passed constitutional amendments that, for the first time, guaranteed such access to victims. N.C. CONST., art. I, § 37(1)(a); OR. CONST., art. 1, § (1); NEV. CONST., art. 1, § 8(b). In addition, at the same time, Connecticut, Oklahoma, and South Carolina elevated to constitutional level rights of access previously provided by statute. CONN. CONST., art. 17(b); OKLA. CONST., art. II, § 34(A); S.C. CONST., art. I, § 24(A).

7 *Id.* States providing for oral testimony or a statement by the victim at a sentencing hearing are: AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, IL, IN, KS, LA, ME, MD, MA, MI, MN, MO, MT, NB, NV, NH, NJ, NY, ND, OH, OK, OR, RI, SC, SD, TN, WV, UT, VT, WA, WI, WY.

8 *Id.* at § 9 (Table 9-B).

9 Violence Against Women Grants Office, *Domestic Violence and Stalking: The Second Annual Report to Congress*, Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Violence Against Women Grants Office, July 1997 :15

10 Szymanski, L., *Rights of Victims of Juvenile Crimes Statutes Analysis, 1993 Update*, National Center for Juvenile Justice, 1994:1-9. See also National Victim Center, 1996 *Victims' Rights Sourcebook*, § 13 (discussions of victims' rights at the juvenile level).

11 *See generally*, Beatty, D., S. Howley, and D. Kilpatrick, *Statutory and Constitutional Protection of Victims' Rights: Implementation and Impact on Crime Victims, Sub-Report: Crime Victim Responses Regarding Victims' Rights*, Arlington, VA: National Victim Center, 1997.

12 *Victim Witness Protection Act of 1982*, Pub. L. No. 97-291, § 4, 96 Stat. 1249 (codified at 18 U.S.C. §§ 1512-1515; Fed. R. Crim. P. 32); President's Task Force on Victims of Crime, *Final Report*.

13 *Id.* at § 2(b), reprinted at 18 U.S.C. § 1512.

14 U.S. Department of Justice, *Guidelines for Victim and Witness Assistance*, Washington, D.C.: U.S. Department of Justice, Office of the Attorney General, 1983. These Guidelines have been revised several times, and between 1983 and 1995, the title was changed to *Attorney General Guidelines for Victim and Witness Assistance*. The *Guidelines* will be revised and reissued in fiscal year 1998.

15 *Crime Control Act of 1990*, Pub. L. No. 101-647, Title V, §§ 502-503, 104 Stat. 4820 (codified at 42 U.S.C. §§ 10606-10607 (1990)).

16 42 U.S.C. § 10606(a); U.S. Department of Justice, *Attorney General Guidelines for Victim and Witness Assistance*, Washington, D.C.: U.S. Department of Justice, Office of the Attorney General, 1995:2,5 (hereinafter *1995 A.G. Guidelines*).

17 *Violent Crime Control and Law Enforcement Act of 1994*, Pub. L. No. 103-322, Title IV, §§ 40113, 40221, 40503; Title XXV, § 250002(a)(2); Title XXIII, § 230101(b), 108 Stat. 1904-2078 (codified at 42 U.S.C. §10607(c)(7), 14011(b); 18 U.S.C. §§2263-2264, 2248, 2259 and at Fed. R. Crim. P. 32 (1994)).

18 Megan's Law amendment to the Jacob Wetterling Crimes Against Children and Sexual Violent Offender Act, 42 U.S.C. §14071.

19 18 U.S.C. §2261A.

20 President's Task Force on Victims of Crime, *Final Report*, 114-115.

21 For further information, see "Constitutional Amendments for Crime Victims" by J. H. Stein, available from the National Organization for Victim Assistance in Washington, D.C. NVCAN was created following a meeting sponsored by the National Organization for Victim Assistance (NOVA) and Mothers Against Drunk Driving (MADD) in 1985. Robert Preston, president of the Florida-based Justice for Surviving Victims forcefully advocated that the group support the Task Force recommendation for a victims' rights amendment to the federal constitution. The coalition has grown to include many other victims, advocates, elected officials, and others from local, state, and national groups that represent all types of criminal victimization.

22 This information has been compiled by the National Victims' Constitutional Amendment Network, (NVCAN) and the National Victim Center and appears in NVCAN's 1996 *Constitutional Amendment Action Kit*.

23 President's Task Force on Victims of Crime, *Final Report*, 51.

24 *Id.*

25 Bourque, B., and R. Cronin, *Helping Victims and Witnesses in the Juvenile Justice System: A Program Handbook*, American Institutes for Research, Office of Juvenile Justice and Delinquency Prevention, April 1991.

26 Since the release of the report in 1982, the number of crimes committed by juveniles skyrocketed between 1985 and 1994, and juvenile crime became much more violent. Between those years, murder arrests of juveniles increased 150 percent, robbery arrests of juveniles increased by 57 percent, and aggravated assault arrests of juveniles increased by 97 percent. Snyder, H. ET AL., *Juvenile Offenders and Victims: 1996 Update on Violence: Statistics Summary*, Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, February 1996:12 (report prepared by the National Center for Juvenile Justice, National Council of Juvenile and Family Court Judges). Crimes committed by juveniles against juveniles is also a growing concern. In 1992, 1.5 million violent crimes were committed against juveniles aged 12 to 17, a 23 percent increase in just 5 years. Moone, J., *Juvenile Victimization: 1987-1992*, Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, June 1994:1. However, in 1995, violent juvenile crime arrests—contrary to predictions—declined by three percent. In relative terms this decline was small, but the nature of the decline gives hope for the future. The decline in juvenile murders in 1995 was mostly in gun-related murders by African-American males. "What's Behind the Recent Drop in Juvenile Violent Crime?" *Juvenile Justice*, Volume III, Number 2, Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, September 1997.

27 National Victim Center, *1996 Victims' Rights Sourcebook*, § 13 (Table 13-A, Victims' Rights at the Juvenile Level). As of 1996, only Arkansas, Nebraska, North Dakota, South Dakota and the District of Columbia do not allow the court to order restitution from juvenile offenders.

28 *Id.*

29 *Id.*

30 *Id.*

31 *Id.*

32 *Id.*

33 *Id.*; TEX. JUV. JUS. CODE ANN. § 57.002 (2) (West).

34 *National Victim Center Legislative Tracking Database Project*, §13. As of 1995, the constitutions of Alaska, Idaho and Missouri provide rights for victims of juvenile offenders; the constitutions of Arizona and Utah permit the legislature to extend the rights to juvenile proceedings. In addition, in November 1996, the constitutions of Oregon and South Carolina were amended to provide rights to victims at the juvenile level. OR. CONST., art. 1, § 1(1); S.C. CONST., art. 1, § 24(A)(1). Moreover, the constitution of Oklahoma was amended to authorize the legislature to extend the rights to juvenile proceedings. OKLA. CONST., art. 2, § 34(C) (amended 1996).

35 Bourque, B. and R. Cronin, *Helping Victims and Witnesses in the Juvenile Justice System: A Program Handbook*, Washington, D.C.: Office of Justice Programs, Office of Juvenile Justice and Delinquency Programs 1991.

36 Seymour, A. and S. English, *Report and Recommendations on Victims of Juvenile Crime*, American Correctional Association Victims Committee, 1994:17-18.

37 Coordinating Council on Juvenile Justice and Delinquency Prevention, *Combating Violence and Delinquency: The National Juvenile Justice Action Plan - Report*, Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, March 1996.

38 National Victim Center, *1996 Victims' Rights Sourcebook*, §13.

39 August 1996, Keynote address, annual conference of the National Organization for Victim Assistance. Tulsa, Oklahoma.

40 Among victim groups and criminal justice and other allies endorsing a Victims' Rights Constitutional Amendment as of November, 1997, are: Association of Traumatic Stress Specialists, Concerns of Police Survivors (COPS), Mothers Against Drunk Driving, National Association of Crime Victim Compensation Boards, National Center for Missing and Exploited Children, National Coalition Against Sexual Assault, National Organization for Victim Assistance, National Victim Center, Neighbors Who Care, Parents of Murdered Children, Security on Campus, Victim Assistance Legal Organization, American Correctional Association, the Victims' Committee of the International Association of Chiefs of Police, the National Criminal Justice Association, and the National Governors Association. Victim groups and other national organizations that have expressed opposition to a federal crime victims' rights amendment include: the American Civil Liberties Union, Murder Victims Families for Reconciliation, the NOW Legal Defense and Education Fund, the National Clearinghouse for the Defense of Battered Women, National Network to End Domestic Violence, and the National Legal Aid and Defender Association. The Criminal Law Committee of the Judicial Conference of the United States and the Conference of Chief Justices have expressed concerns.

41 Beatty, D., S. Howley, and D. Kilpatrick, *Statutory and Constitutional Protection of Victims' Rights: Implementation and Impact on Crime Victims, Sub-Report: Crime Victim Responses Regarding Victims' Rights*, Arlington, VA: National Victim Center, 1997.

42 *Id.*

43 *Id.*

44 *Id.*

45 GA. CODE ANN. § 16-5-93 (1993).

46 ARK. R. EVID. 616 (right to be present); ALA. R. EVID. 615 (exception to witness exclusion rule for victims); OR. R. EVID. 615 (same).

47 ARIZ. REV. STAT. ANN. § 13-4420; MO. CONST., Art. 1, § 32.

48 ALA. CODE § 15-14-54; ILL. COMP. STAT. ANN. § 725-120/4(5); S.D. CODIFIED LAWS § 23A-24-7.

49 ALA. CODE §§ 15-14-51 to -57 (victim has right to be present and to sit at prosecutor's table). Maryland has also attempted to extend the victim's right to attend to include "attendance" by the homicide victim through an "in life" photograph at the trial of the defendant. This extension is under consideration in the Maryland courts. See *Maryland v. Broberg*, No. 95-22, (Ct. App. Md.)

50 As of 1995, 29 states required the prosecutor to consult with the victim or obtain the victim's views prior to entering a plea agreement. See National Victim Center, *1996 Victims' Rights Sourcebook*, 135-37.

51 By 1995, fourteen states required the prosecutor to consult with the victim prior to dismissing charges. See National Victim Center, *1996 Victims' Rights Sourcebook*, 135-37.

52 Four states required victim consultation by the prosecutor regarding decision not to prosecute the case, as of 1995. See National Victim Center, *1996 Victims' Rights Sourcebook*, 135-37.

53 Such disposition decisions include pretrial diversion, reduction of charges, and sentence recommendation. See National Victim Center, *1996 Victims' Rights Sourcebook*, 135-37.

54 As of 1995, ten states specifically required a prosecutor to consult with a victim prior to trial, but other states gave victims a general right to consult the prosecutor. National Victim Center, *1996 Victims' Rights Sourcebook*, 135-37.

55 *See e.g.*, FLA. STAT. ANN. § 960.001(1)(e)(1) (1996); HAW. REV. STAT. § 801D-4(1) (1996); See also National Victim Center, *1996 Victims' Rights Sourcebook*, § 13 (discussing victims' rights at the juvenile level).

56 N.D. CENT. CODE § 12.1-34-02 (1996); See also National Victim Center, *1996 Victims' Rights Sourcebook*, §5 (discussing victims' right to confer with the prosecutor).

57 NEB. REV. STAT. § 23-1201, § 29-120 (1996).

58 LA. REV. STAT. ANN. § 46:1844 (1996).

59 *See e.g.*, ARIZ. REV. STAT. ANN. § 13-4423 (1996); DEL. CODE ANN. tit. 11, § 5106 (1996); IND. CODE ANN . § 35-35-3-2 (1996); *See also* National Victim Center, *1996 Victims' Rights Sourcebook*, § 5 (discussing victims' right to confer with the prosecutor).

60 *See* North Carolina Victim Assistance Network, *The Status of Victim Services & Rights in North Carolina*. North Carolina: North Carolina Victim Assistance Network, 1994:4.

61 See e.g., DEL. CODE ANN. tit. 10, § 940; ILL. COMP. STAT. ANN. § 725-5/110-4; KAN. STAT. ANN. § 22-2802.

62 MD. CODE ANN. art. 27, §616 2(a-l) (1993).

63 Duggan, P., "Reward Program Targets Witnesses to D.C. Homicides," *Washington Post*, March 23, 1994.

64 *E.g.*, ARIZ. REV. STAT. ANN. § 13-4331 (West 1991); ARK. CODE ANN. § 16-21-106(a)(5) (1983); N.Y. EXEC. § 642(2) (McKinney 1986); *See also* National Victim Center, *1996 Victims' Rights Sourcebook*, § 4 (discussing victims' right to protection from offender harm).

65 *E.g.*, COLO. REV. STAT. § 18-8-704 (1990); ILL. COMP. STAT. Ch. 720, § 5/32-44a (1993); KY. REV. STAT. ANN. § 524.05 (1986).

66 *E.g.*, ARIZ. REV. STAT. ANN. § 18-1-1001 (1991); D.C. CODE ANN. §§ 23-1321, 23-1329 (1981); N.Y. CRIM. PROC. § 530.13 (McKinney 1986).

67 *E.g.*, ARIZ. REV. STAT. ANN. § 13-4433 (1991); OR. REV. STAT. § 135.970(2) (1987). Oregon's 1996 constitutional amendment for victims' rights contains a similar provision. OR. CONST., art. I, § 1(d). It is not yet clear how the statutory and constitutional provisions will interact.

68 *E.g.*, ILL. COMP. STAT. Ch. 730, § 5/3-3-4(7) (1996); S.C. CODE ANN. § 24-21-710 (Law Co-op. 1995). *See also* National Victim Center, *1996 Victims' Rights Sourcebook*, §4 (discussing victims' right to protection from offender harm), §9, (as of 1995, a total of 43 states allow victims to be heard at parole hearings). National Victim Center ET AL., *National Victim Services Survey of Adult and Juvenile Corrections and Parole Agencies Final Report*, Arlington, VA: National Victim Center, September 1991:14.

69 *See* Smith, B., ET AL., *Improving Enforcement of Court-Ordered Restitution: Executive Summary*, American Bar Association, Washington, D.C.: 1989:15.

70 President's Task Force on Victims of Crime, *Final Report*, 18, 34, 72 and 78-80.

71 National Victim Center, *1996 Victims' Rights Sourcebook*, § 11.

72 S.C. CODE ANN. § 16-3-1530 (1996); W.VA. CODE ANN. § 61-11A-4 (1996).

73 The Mandatory Victim Restitution Act, Title II of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132 (1996), 18 U.S.C. § 3663A (1996).

74 National Victim Center, *1996 Victims' Rights Sourcebook*, § 11 (discussing victims' right to restitution from the offender).

75 National Victim Center, *Legislative Database*, Arlington, VA: 1997.

76 *See* National Victim Center, *1996 Victims' Rights Sourcebook*, § 13 (Table 13-A).

77 *Id.*

78 As examples, see CONN. GEN. STAT. §52-572 (civil liability, limited to $5,000); NEV. REV. STAT. § 41.470 (civil liability, limited to $10,000); N.M. STAT. ANN. § 32A-4-26 (civil liability; limited to $4,000), TEX. FAM. CODE ANN. §54.041 (restitution).

79 Seymour, A., *National Victim Services Survey of Adult and Juvenile Corrections and Parole Agencies: Crime Victims and Corrections: Implementing the Agenda for the 1990s*, Arlington, VA: U.S. Department of Justice, Office for Victims of Crime/National Victim Center, 1991.

80 Snyder, H. ET AL., *Juvenile Offenders and Victims: 1996 Update on Violence: Statistics Summary*, Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, February 1996:12 (report prepared by the National Center for Juvenile Justice, National Council of Juvenile and Family Court Judges).

81 See 18 U.S.C. §3624.

82 See National Victim Center, *1996 Victims' Rights Sourcebook*, § 8:205.

83 42 U.S.C.§ 3756.

84 Violence Against Women Improvements Act, 42 U.S.C. §14011.

85 ME. REV. STAT. ANN. tit. 5 §§ 19203 et. seq.

86 MICH. COMP. LAWS §333.5129.

87 OKLA. STAT. tit. 63 §§ 1-524.-525.

88 FLA. STAT. ANN. § 960.003

89 MINN. STAT. § 72A-29

90 MD. CODE ANN. Art. 27, § 776 (1993).

91 ARIZ. REV. STAT. ANN. § 13-4437 (West 1991).

92 *United States* v. *McVeigh*, 106 F.3d 325 (1997)

93 The concept of a victim ombudsman was first discussed in Dussich, J., "The Victim Ombudsman: A Proposal," in *Victimology: A New Focus*, Volume II, Society's Reactions to Victimization, Eds. I. Drapkin and E. Viano. Lexington, MA: Lexington Books, 1974.

94 South Carolina Victim Ombudsman Program, S.C. CODE ANN. § 16-3-1610.

95 COLO. REV. STAT. § 24.4.1-117.5(2)(a) (1996) Colorado Coordinating Committee.

96 COLO. REV. STAT. § 24-4.1-303(17) (1992).

97 Wisconsin Victim Resource Center: WISC. STAT. ANN. § 950.08.

98 See 18 U.S.C. §§3663, 366A; 42 U.S.C. §10606(b) (6).

99 Notice of Indian Entities Recognized and Eligible to Receive Services from the U.S. Bureau of Indian Affairs, 61 Fed. Reg. 58211 (1996). As of 1996, the Bureau of Indian Affairs (BIA) had officially recognized a total of 621 Indian entities, including tribes and Native Alaskan villages.

100 *United States* v. *Wheeler*, 435 U.S. 313 (1978); *Oliphant* v. *Suquamish Indian Tribe*, 435 U.S. 191 (1978).

101 CAL. EDUC. CODE §§48918, 48918.5, as amended by 1996 Cal. Stat. Ch. 915 §4 (A.B. 692).

102 Pyle, A., "New Rights for Campus Victims," *Los Angeles Times*, Wednesday, October 2, 1996.

103 *The Student Right to Know and Campus Security Act of 1990*, Title II, P.L. 101-542 (1990) and 20 U.S.C. §1092(f)(1-6).

104 *Campus Sexual Assault Victims' Bill of Rights*, 20 U.S.C. §1092(f)(7) (1992).

105 *See e.g.*, FLA. STAT. ANN. § 943.172 (1996) (training for law enforcement, probation, and other corrections officials); N.J. STAT. ANN. § 52:4B-47 (1996) (training for police, assistant prosecutors, county detectives, and investigators).

106 A how-to booklet and video on implementing victim impact panels or manuals for victim impact classes is available from Mothers Against Drunk Driving.

107 *See* False Claims Act, 31 U.S.C. §§ 37-31. A draft bill being developed by Senators Leahy and Kennedy in May of 1997 proposes using a portion of the money collected under the False Claims Act to fund victim services.

108 18 U.S.C. §1962.

109 *Id.*

110 For example, see KY. REV. STAT. ANN. § 346.185.

111 For example, see WIS. STAT. ANN. § 973.045.

112 For example, see UTAH CODE ANN. § 63-63a-1.

113 For example, see COLO. REV. STAT. ANN. § 24-4.2-104.

114 For example, see IDAHO CODE § 39-5213.

115 For example, see MISS. CODE ANN. § 93-21-305.

116 For example, see ALA. CODE §§ 26-16-30 and 31.

117 MICH STAT. ANN. § 28.1287(909).

SECTION II

New Directions for Criminal and Juvenile Justice System Agencies

When a person is harmed by a criminal act, the agencies that make up our criminal and juvenile justice systems have a moral and legal obligation to respond. It is their responsibility not only to seek swift justice for victims, but to ease their suffering in a time of great need. This section focuses on improving how well justice agencies carry out these critical but often neglected responsibilities. It is based on extensive input from the field, including background papers submitted by experts and working groups of leading professionals in each field that separately addressed each element of the justice system.

The discussion is divided into chapters on each component of the justice system—law enforcement, prosecution, the judiciary, and corrections. For professionals working in these disciplines, the field urges action in two crucial areas: more aggressively enforcing victims' rights and making a true commitment to helping victims exercise those rights. Specifically, the field's recommendations urge enhanced training on victims' issues and cultural competency, victim input through advisory boards and committees, development of specific policies, procedures, and programs to institutionalize improved treatment of and responsiveness to victims, dissemination of information to victims, coordination of efforts across disciplines through team approaches; accountability through requiring victim assistance and sensitivity in employee evaluations; and evaluation of agency victim-witness efforts in accomplishing these tasks. Recommendations also encourage increased use of technology to better serve victims, development of programs on staff victimization, and outreach to underserved crime victims.

CHAPTER 2

Law Enforcement

The significance of law enforcement's role in responding to crime victims cannot be overemphasized. Law enforcement officers interact more often with crime victims than other professionals in the criminal justice system. The way that victims are treated by dispatchers, the first officers arriving at the scene of the crime, and detectives investigating the case shapes their expectations of how they will be treated throughout the justice process. It is therefore critical that every law enforcement professional who interacts with crime victims, either in person or over the telephone, know how to respond in a sensitive and effective manner.

As the first responders to most reported crimes, law enforcement agencies must ensure that victims are treated with sensitivity and provided essential information and emergency assistance in the immediate aftermath of victimization. State and federal laws mandate victims' rights that law enforcement must fulfill. They generally include the right to information about rights and crime victim compensation, and, in some states, to referrals to victim services; the right to protection from intimidation and harm, including aggressive enforcement of anti-stalking and restraining orders; the right to regular updates on the status of the investigation; and the right to notification when the accused is released from custody.

The Department of Justice has long recognized the significant role law enforcement plays in providing information and assistance to victims of crime. Over 20 years ago, law enforcement was one of the first allied professional groups targeted for training and technical assistance by the Law Enforcement Assistance Administration (LEAA) within the Department of Justice. LEAA helped fund innovative programs such as assistance to elderly victims and mobile crisis units with police officers and mental health professionals to respond to crime scenes. During that time, the first police-based victim assistance programs were established in police departments in Ft. Lauderdale, Florida, and Indianapolis, Indiana.

Today, the Office for Victims of Crime supports 113 victim assistance programs in police departments across the country through Victims of Crime Act (VOCA) funding. Many departments are using these funds to serve victims in innovative ways. In Detroit, Michigan, for example, the city's police department uses VOCA funds to fund a rape council, which provides hospital accompaniment, counseling, criminal justice advocacy, and other vital services to victims of sexual assault.

> *Very often a victim's first view of the criminal justice system is the law enforcement officer who responds to the scene of the crime. It is critical that this officer be well-trained and informed about victims' rights and services. If this officer does not refer the victim to appropriate assistance and compensation programs, that victim may never receive the help needed to heal.*
>
> Joe Brann,
> Director of
> Community Oriented
> Policing Services Office,
> U.S. Department of Justice

How Law Enforcement Agencies Are Responding to Victims of Crime

In 1982, the President's Task Force identified four important areas for improving law enforcement's treatment of crime victims:[1]

- Developing training programs to increase sensitivity and awareness about victims issues.
- Implementing prompt property return procedures.
- Providing periodic information for victims regarding case status and the closing of the investigation.
- Putting a high priority on investigating witnesses' reports of threats or intimidation.

To varying degrees, federal, state, and local agencies have made progress in these areas. There are no comprehensive data on the percentage of law enforcement agencies that provide basic victim assistance services. According to the International Association of Chiefs of Police, while the majority of large city police departments have established victim assistance programs, the majority of law enforcement agencies serving smaller jurisdictions and rural areas have not.[2] In a 1990 Bureau of Justice Statistics survey of law enforcement agencies with more than 100 sworn personnel, 37 percent of responding agencies reported that they operated special victim assistance units.[3]

The range of services provided by law enforcement agencies across the nation varies significantly. A growing number of agencies employ full-time advocates to provide comprehensive assistance to victims, and many agencies have adopted policy statements on the basic level of assistance victims should receive. Some departments have designated an individual within the agency for victims to contact—a basic standard of service recommended by the Commission on Law Enforcement Accreditation. Furthermore, many departments aid victims by giving them brochures on community-based victim assistance programs, the legal system, and the needs of specific groups of victims such as those victimized by domestic violence and sexual assault.

- In Austin, Texas, the police department developed a comprehensive counseling and victim assistance program with three specialized units: day service, child abuse, and family violence. The department uses a special on-scene crisis unit with counselors equipped with unmarked police cruisers and radios to respond to victims and aids victims who need to leave abusive situations by paying for hotel stays of up to two nights. The department also operates a unique "Mobo cop" substation out of a van it stations at trouble spots in high-crime neighborhoods. The substation is staffed by neighborhood beat officers, a counselor from the department's victim services division, and a city services coordinator.

- In Florida, the State Department of Law Enforcement's Crimes Against Children Program renovated a large trailer confiscated in a drug forfeiture and turned it into the nation's first mobile child abuse investigation unit. The unit is staffed by a multidisciplinary team of investigators who can be called to a location in less than 24 hours anywhere in the state. As a mobile facility, the unit spares victims and witnesses the inconvenience, embarrassment, and intimidation of traveling to a law enforcement facility. Interviews are conducted in a child-friendly atmosphere and trailer is equipped with high-tech audio equipment and color cameras to monitor and record interviews and wireless headphones that allow continuous communication between the monitor team and the interviewer. Since its deployment in 1994, the facility has been used to interview approximately 500 children in 14 judicial circuits.

- In Kentucky, the Lexington Police Department created the nation's first automated system to notify victims of any pretrial/preconviction release of the accused from custody or when there is a change in their status. The system, which is now used throughout the state, calls victims repeatedly until a successful notification is made, giving them time to take possibly life-saving precautions. The system gives the public, including victims, access to critical inmate information 24 hours a day, 7 days a week. Over 300 state and local jurisdictions are in the process of implementing similar notification systems.

- In Waltham, Massachusetts, and Skokie, Illinois, police agencies have installed panic devices in the homes of at-risk victims in response to the growing number of stalking and domestic violence incidents reported in those states. When activated, these devices signal the police department through wireless transmitters. Many law enforcement agencies have taken stalking and domestic violence prevention even further by arranging the free use of cellular phones by victims, giving them greater mobility.

Many crime victims need emergency assistance such as food, gas, utilities, temporary housing, transportation, medical supplies, and clothing. Rather than making crime victims wait for weeks or months to receive victim compensation, some police departments are providing emergency assistance.

- In Monroe, Washington, the police department serves as a central distribution point for emergency victim assistance funds available from community resources. The police department uses short, simple application forms so victims can apply as quickly as possible for assistance, which is financed by such groups as the United Way, the Salvation Army, and the Safeway Corporation.

Federal law enforcement agencies have taken major steps to enforce victims' rights. Under federal law, they are responsible for identifying victims and witnesses of federal crimes, informing victims of their rights immediately after an incident, and referring them to emergency medical and victim services. These and other important responsibilities are set forth in the ***Attorney General Guidelines for Victim and Witness Assistance***, which stress that, whenever possible, law enforcement officials must "assist the victim in contacting the specific person or office which will provide the above services."[4]

More than 70 federal agencies and officials have a law enforcement function, including the Federal Bureau of Investigation (FBI), military agencies, the Bureau of Indian Affairs, U.S. Customs officials, U.S. Postal Inspectors; and the U.S. Park Service. These agencies are reaching out to victims by developing informational brochures in various languages, conducting national and regional training programs for their investigators, and designating victim-witness coordinators in their offices.

Victims want to be kept up to date on case status and need explanations of each step in the process. Victims want to feel 'part of the team' in resolving the problem.

A Law Enforcement Officer

Of all federal agencies, the FBI interacts most often with crime victims. In 1996, the Director of the FBI took steps to improve the Bureau's response to victims by increasing FBI victim-witness specialists, enhancing training for FBI victim-witness coordinators, establishing an emergency fund for victim services, and revising the FBI Victim-Witness brochure, which FBI agents distribute to every crime victim they assist. Each of the 56 FBI field offices in the nation now has a designated victim-witness specialist.

Multidisciplinary Teams and Partnerships

Law enforcement has taken an active and pivotal role in the development of multidisciplinary team approaches, first in response to child abuse in the 1980s, and then in response to sexual assault and domestic violence in the 1990s. Many departments have established special multidisciplinary programs, which have improved law enforcement's response to victims because they utilize the expertise of many disciplines in one setting.

- In Tennessee, the Metropolitan Nashville Police Department created a Victim Intervention Program in 1975. The unit is now staffed by mental health counselors and provides free crisis intervention and ongoing counseling for any victim of a violent or other crime that has affected an individual emotionally. In 1994, the department expanded its assistance to victims by creating a separate Domestic Violence Intervention Division that coordinates its response with the prosecutor's office. The largest program of its kind in the nation, the division is staffed by more than 32 specially trained professionals who handle thousands of cases each year. The Nashville Police Department credits this unique intervention with helping to reduce domestic violence homicides by over 40 percent in 2 years.

- In Connecticut, the New Haven Department of Police Services and the Child Study Center at Yale University School of Medicine have developed a unique collaborative program to address the psychological impact of chronic exposure to violence on children and families. The initiative, called the Child Development-Community Policing Program, brings together police officers and mental health professionals to provide each other training, consultation, and support, as well as direct interdisciplinary intervention to children who are victims, witnesses, or perpetrators of violent crime.

- In New York City, the New York Police Department and Victim Services, a nonprofit social service agency, launched a joint initiative in 1984 in which police officers and victim counselors work in tandem to respond to domestic violence incidents. The counselors reach out to domestic violence victims—by letter or in person—with the dual message that domestic violence is a crime and that help is available. They also frequently accompany police officers on followup investigations, giving priority to households in which there have been three or more incidents and to clients who appear to be at greater risk. Counselors conduct periodic roll call trainings on a range of domestic violence issues. The program currently is in operation in 21 precincts.

> *It is about the law keeping its promise.*
>
> Sergeant Mark Wynn,
> Domestic Violence Division,
> Nashville Metropolitan
> Police Department

- In Florida, the Largo Police Department collaborates with the state attorney's office and with the local domestic violence shelter to enhance services to victims and to improve the prosecution rate of domestic violence cases. Staff in the department's domestic violence unit receive intensive training on responding to domestic violence incidents more effectively. The unit uses technological advances to help gather evidence, including lapel microphones to record audio arrival at the scene and camcorders to videotape victim and witness statements on the scene. One of the unit's most innovative services is faxing copies of police reports to the local shelter, which then calls victims to offer assistance.

In many communities, law enforcement officers and health care professionals are using a new approach to handling sexual assault and child abuse cases in which victims are treated in specialized settings more hospitable than emergency rooms. In these secure and comfortable environments, trained nurse examiners conduct evidentiary medical exams.

- In Tulsa, Oklahoma, one such program, which has been recognized by the Ford Foundation and Kennedy School of Government as an important public sector innovation, was initiated through the efforts of local police and medical professionals. Sexual assault victims are treated in a quiet section of the hospital decorated in a warm way to provide a welcoming and supportive environment for victims. After conducting more than 500 rape examinations in this special setting, Tulsa police officials reported substantial improvement in the quality of forensic evidence and a higher rate of convictions due to victims' greater willingness to undergo examinations. Local officials also reported that all of the cases prosecuted with nurses providing testimony resulted in convictions.

To respond to the needs of elderly crime victims, more than 525 Triad programs have been started in communities nationwide.[5] These innovative community policing programs are partnerships among the county sheriff, police chief, and elder representatives in each community. Developed by the American Association of Retired Persons, the International Association of Chiefs of Police, and the National Sheriffs' Association, Triads work to reduce crimes against the elderly, improve public awareness, and improve law enforcement's response to the elderly.[6] Victim services offered through Triad programs include crime prevention, crisis intervention, repairs to damaged residences, transportation to medical services and criminal justice proceedings, and courtroom escort.[7] Each Triad is governed by a SALT Council (Seniors and Law Enforcement Officers Together) that develops programs and services to meet the individual needs of the community.[8]

> *Triad partnerships benefit not only our nation's seniors, but law enforcement as well.*
>
> Terri Hicks,
> Triad Program,
> National Sheriffs Association

- In Bridgeport, Connecticut, the sheriff hired a bus to take seniors to the market once a week after they complained that they felt unsafe while shopping for food. Many of these seniors crochet outfits for teddy bears, which are given to sexually abused children.

Federal law enforcement is also responding to crime victims through multidisciplinary initiatives. In 1995, the Attorney General established the Federal Agency Task Force for Missing and Exploited Children composed of representatives from 14 federal agencies and the National Center for Missing and Exploited Children, a nonprofit agency in partnership with the Office of Juvenile Justice and Delinquency Prevention. The Task Force seeks to identify gaps and duplications in service delivery to missing and exploited children and their families. The Task Force focuses on coordination and policy issues and has compiled a directory, ***Federal Resources on Missing and Exploited Children: A Directory for Law Enforcement and Other Public and Private Agencies***, that provides information on access points to the broad array of federal services for parents and law enforcement.[9]

Death Notification

One of the most difficult aspects of a law enforcement officer's job is notifying surviving family members of the death of a loved one. Realizing the psychological toll of death notifications on officers and the lasting negative impact that improperly conducted notifications have on victims, law enforcement agencies are now developing protocols for appropriate death notification practices.

- In Howard County, Maryland, and other jurisdictions, police officers give a checklist to survivors that helps them obtain death certificates, apply for financial assistance and other benefits, choose a funeral home, and consider other important services. This information helps survivors who have no idea what to do after a loved one has died by giving them a tool to navigate a legal system they may find confusing and overwhelming when overcome with grief.
- In Texas, the Arlington Police Department allows survivors to spend as much time as they want with the victim, to view and touch the body, regardless of its condition.

Recognizing the importance of ensuring that all law enforcement personnel respond to survivors of homicide appropriately and with compassion, the Office for Victims of Crime (OVC) supported the development of a training curriculum and accompanying videotape for law enforcement professionals by Mothers Against Drunk Driving. Entitled *Death Notification: Breaking the Bad News with Concern for the Professional and Compassion for the Survivor*, this training is available to law enforcement officers across the country through the OVC Trainers Bureau.[10]

Community Policing

The concept of community policing has emerged within this decade, and its principles are transforming the criminal justice system. It is a philosophy of problem solving at the local level whereby "police officers and private citizens working together in creative ways can help solve contemporary community problems related to crime, fear of crime, social and physical disorder, and neighborhood decay."[11] Community policing is based on the belief that police departments must develop new relationships with the people in their community, allowing community members to have a voice in setting local law enforcement priorities and involving them in efforts to improve the quality of life in their neighborhoods.[12] Rather than spend the bulk of their time responding to random calls, police work proactively with the community to solve problems.[13]

> *Let us get the law enforcement officers throughout America . . . to the streets of America where the violence is, to the communities and the neighborhoods. Let us make sure that we use our police in the most effective manner possible, forming partnerships to avoid duplication, and developing community policing operations where police officers are on the cutting edge of building confidence and credibility in government.*
>
> Attorney General Janet Reno,
> New York City
> Candlelight Vigil for National
> Crime Victims Rights Week,
> April 1993

77

The following letter was sent by a mother whose son was killed in a drunk driving crash to the officer who was with her when she learned her child was dead. She wrote it on the first year anniversary of her son's death. It illustrates the profound impact law enforcement officers can have on a crime victims' ability to cope in the immediate aftermath of what may be the most devastating type of victimization—the death of a child.

Dear Officer,

A year ago today, you stood in a snowy field as you informed me that my son, Jim, was dead. I will never forget that day and I'm sure you won't either. I have never thanked you for the care and the compassion you showed me that day. I will never forget the look on your face as you struggled to tell me that Jim was dead. I realized then that you too were a victim of someone's irresponsibility.

I remember that when my legs wouldn't hold me any more and I collapsed in the snow, you sat down next to me and never left my side. I think often (a scene I relive over and over) about how kind that was of you. I also know how difficult it must have been for you as I argued that Jim wasn't really dead. You had to keep telling me that he was. I wouldn't have your job for anything.

I could tell by the look in your eyes that you were hurting. I would not recognize you on the street today, but if I looked into your eyes I would remember them. The pain I saw reflected there is something I will never forget. I'm sorry that I haven't written you before now. I have been waiting for the trial, which has been postponed six times, and it has been difficult for me to write. I hope to meet you in person some day and thank you for being such a caring and compassionate human being. I know how much negative feedback law enforcement officers get. But officers like you, who in my opinion go beyond the call of duty, need to know that they are appreciated.

I have been trained in crisis counseling. This made me aware that you were doing everything just right. I needed to get into the car and hold Jim's broken body in my arms and kiss him goodbye, and you didn't deny me that right. I thank God that you allowed me to spend time with Jim while his spirit was still there. I thank God for caring people like you who are forced to witness tragedies like this everyday. My hope is to someday keep intoxicated drivers off the road, not only for the families of the victims but also the forgotten victims such as you.

Thanks and God Bless,

Jeri H.

The ultimate goal of community policing is to reduce crime by using community-police partnerships to develop crime prevention strategies that work. As police officers develop trust with residents in neighborhoods, community policing may encourage victims who traditionally do not report crimes to participate in the system and seek assistance for their financial, physical, and emotional injuries.

The Violent Crime Control and Law Enforcement Act of 1994[14] authorized funds to promote community policing and to add 100,000 community policing officers to the streets over 6 years.[15] The Office of Community Oriented Policing Services (COPS) within the U.S. Department of Justice, is responsible for carrying out this mission[16] and, as of February 1997, the agency had awarded grants for the hiring or redeployment of more than 54,000 police officers and sheriff's deputies.[17] The COPS Youth Firearms Violence program supports innovative community policing approaches to fight firearm violence among young people, and the COPS Community Policing to Combat Domestic Violence program provides grants to local communities to fight domestic violence.

According to research sponsored by the National Institute of Justice, community policing has been adopted in many jurisdictions across the nation. In a 1993 survey of 2,314 municipal and county police and sheriff's departments, nearly 20 percent of the respondents had implemented a community policing approach and 28 percent were in the process of doing so. The same study showed that community policing is producing benefits nationwide. Among agencies that had implemented community policing for at least a year, 99 percent reported improved cooperation between citizens and police, 80 percent reported reduced fear of crime in the community, and 62 percent reported fewer crimes against persons.[18]

- In San Diego, California, the police department, in partnership with the YWCA of San Diego County, created a Community Domestic Violence Resource Network. With support from a $200,000 COPS grant, a toll-free telephone clearinghouse provides access to information on all domestic violence service providers in the county. The network has been a particularly valuable resource for community police officers. Using a computerized database, specially trained information specialists can now tell law enforcement officers in an instant which shelters have space available, which accept children, and other relevant information.[19]

- In Provo, Utah, the sheriff's office reports that they have dramatically increased the human resources available to solve crime problems by involving victims in "victim-assisted" investigations. When appropriate, officers enlist the participation of crime victims by explaining the type of information needed to make an arrest and guiding them on the role they can play in the department's investigation.

- In Lowell, Massachusetts, police report that for the first time in 25 years, a year passed without a single murder. This extraordinary event, police believe, is a product of intensive community policing. With support from a COPS grant, the city hired 65 new officers, created bicycle patrols, and implemented a gang unit. The department also created neighborhood police storefront substations that serve as a base of operations for community police officers assigned to neighborhood foot patrols. Overall, crime has declined in all but one category: an increase in reported assaults. But the department attributes this increase to community policing efforts that have helped women feel more comfortable about reporting domestic violence.[20]

- In Caldwell, Idaho, officers are building bridges with community members through a variety of community policing strategies. Seniors are volunteering to help take nonemergency reports of minor crimes, and citizens are helping officers monitor hard-to-patrol rural areas. With the help of police, residents started GANG (Group Against Neighborhood Graffiti) to paint over graffiti using the labor of volunteers and juveniles ordered to complete community service for petty crimes. Since the community policing initiative began, crime rates have dropped consistently each year and citizen complaints about officers have been reduced by two-thirds.[21]

Another innovative practice implemented by police departments are programs offering a full range of services and multilingual, multicultural support to victims and survivors of gang violence. Much like domestic violence victims, victims and witnesses of gang violence generally live with or among the perpetrators of the crimes and are especially reluctant to participate in the system, fearing retaliation.

I am writing this letter about abuse. Abuse hurts people. I want you to have police go on the streets and check the house once a week for people who hurt people and children.

A letter to President Clinton from a child abuse victim

- In Orange County, California, five victim advocates based in a private non-profit victim assistance program, work collaboratively with police and prosecutors to ensure that they provide comprehensive services for victims of gang violence. The program provides emergency crisis response, sensitive death notification, accompaniment of survivors to emergency rooms, orientation to coroner procedures and policies, assistance with burials and funerals, crime scene cleanup, intervention with employers and the media, assistance in obtaining victim compensation, referrals for counseling services, orientation to posttrial services such as obtaining notification of the offender's status and parole hearings, and training for emergency medical and hospital personnel on responding to gang victims more effectively and sensitively.

Standards for Victim and Witness Assistance

Law enforcement was the first profession within the criminal justice system to develop standards of service for assisting crime victims. In

1979, the Commission on Accreditation for Law Enforcement Agencies was formed by four major law enforcement membership agencies: the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, the National Sheriffs Association, and the Police Executive Research Forum.[22] The Commission was created to establish a body of standards for law enforcement agencies and to oversee an accreditation process that provides these agencies with an opportunity to demonstrate voluntarily that they meet an established set of professional standards.[23] The Commission's first set of standards for responding to victims and witnesses was developed in the late 1980s and added as a special chapter, "Victim Witness Assistance" to the compilation *Standards for Law Enforcement* in 1990.[24] In that publication, the Commission describes the importance of adopting victim/witness standards for law enforcement:

> The principle justification for the standards in this chapter is that they are integral to sound law enforcement. . . . If victims and other witnesses are subjected to what they consider poor treatment, they can be expected to offer something less than wholehearted cooperation with law enforcement agencies, which can have a devastating effect on investigations and subsequent prosecutions. . . . In its own best interests, law enforcement has a role to play in victim/witness assistance.[25]

The standards address both administration and operations within law enforcement agencies and specify whether compliance is mandatory or optional, depending on the size of the agency. Mandatory standards for all law enforcement agencies include: appropriate assistance to victims and witnesses who have been threatened or who, in the judgment of the agency, express specific, credible reasons for fearing intimidation or further victimization; assistance to victims and witnesses during the preliminary and followup stages of an investigation, including referrals to appropriate agencies; death notification procedures; and assistance to agency personnel and their families following line-of-duty deaths.[26]

Training

With support from the Department of Justice, the nation's leading national law enforcement organizations, including the National Sheriffs Association, the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Officers, and the Police Executive Research Forum, have undertaken extensive training initiatives on domestic violence, child abuse, sexual assault, elder abuse, crisis response, and other critical victim issues. Currently, OVC is working with the International Association of Chiefs of Police and the National Organization for Victim Assistance to develop a training curriculum to integrate victim assistance into community policing. In addition, the Office of Juvenile Justice and Delinquency Prevention provides funding to organizations including the National Council of Juvenile and Family Court Judges, the National Center for Missing and Exploited Children, and the American Bar Association to provide child abuse prevention and intervention training to law enforcement.

Since the mid-1980s, the Federal Law Enforcement Training Center (FLETC) has provided basic victim assistance training each year to approximately 3,000 federal law enforcement officers and agents. Moreover, FLETC has incorporated victim assistance into several of its advanced courses. The Federal Bureau of Investigation's training academy in Quantico, Virginia has also integrated training programs on victim assistance into its curricula and has sponsored numerous special education programs on victim issues over the years, beginning in 1983 when it hosted an interdisciplinary National Seminar on Sexual Assault.

Most states now mandate training on domestic violence for law enforcement, and the majority of state law enforcement academies offer training on domestic violence and sexual assault as part of the basic curriculum for recruits. In addition, the Commission on the Accreditation of Law Enforcement Agencies has developed in-service, roll-call, and advanced training standards for its 500 member law enforcement agencies.[27]

The impact of training on officers' response to crime victims is well-documented. In 1995, the National Institute of Justice published the following summary of how training has affected law enforcement response to domestic violence:

> From 1986 to 1992, 23 law enforcement training projects throughout the country received funding through the Office for Victims of Crime to train 16,000 police officers and other justice system staff (such as prosecutors and judges), and community service providers to improve responsiveness to victims of family violence. An NIJ-sponsored study found that the training programs ... brought more uniform and progressive domestic violence policies in participating jurisdictions, improved training participants' attitudes and services to victims, and enhanced working relationships among agencies.[28]

The law enforcement community has made great strides in the past 15 years to respond more appropriately to the needs of crime victims. Many law enforcement agencies and officials are responding to crime and victimization with an unprecedented level of comprehensiveness and compassion. They have made a serious commitment to our society's most vulnerable victims through special units devoted to investigating domestic violence, sexual assault, and child abuse; unique partnerships with elderly citizens; and victim advocacy in community

At the Federal Law Enforcement Training Center, we stress the direct relationship between victim assistance and making good cases. Law enforcement training academies should continually strive to integrate victim assistance into as many areas of training as possible.

• Robert Wells,
Federal Law Enforcement
Training Center

policing efforts. Despite this record of progress, however, law enforcement's response to victims of crime remains inadequate in some communities around the country. Crime victims still report that law enforcement officers sometimes fail to be sensitive or provide critical information, particularly when assisting multilingual and multicultural victims.

Recommendations from the Field for Law Enforcement

LAW ENFORCEMENT RECOMMENDATION FROM THE FIELD #1

Law enforcement agencies should adopt a community policing philosophy that is both victim and crime prevention oriented.

A major part of any community policing initiative should be a comprehensive response to the needs of crime victims. If implemented properly, community policing has the potential to dramatically improve law enforcement's response to victims. When officers are accessible to residents in their neighborhoods, victims of crime are more likely to report crime and seek assistance because they develop trusting relationships with those officers. Equally important, victim services can be delivered much more swiftly when police officers and community organizations work together. Community policing initiatives will not be effective, however, if they do not reflect the lingual and cultural characteristics of the victims and witnesses they serve.

Law enforcement agencies need to recognize that crime victims can be important resources in solving crimes. As community policing becomes the dominant approach to policing, law enforcement agencies should develop ways to incorporate victims of crime into their community partnerships because victims are often the individuals most dedicated to solving cases in which they or their families have been injured. Victims can organize other community members to join problemsolving efforts, and to provide information to help with investigations.

LAW ENFORCEMENT RECOMMENDATION FROM THE FIELD #2

Law enforcement agencies should provide a basic level of support to crime victims through establishing victim assistance programs within their agencies and through community partnerships to ensure

> *Victims are the principle 'customers' of our justice system—and police officers are the first on the scene to respond to them. We need to continually reassess the quality of services we provide to these victims. Since the publication of the original victims report in 1982, the IACP has been actively addressing this issue, teaming with the Office for Victims of Crime, the National Organization for Victim Assistance, and the Violence Against Women Grants Office to develop innovative policies, protocols, and training curricula for police-based services to victims.*
>
> Dan Rosenblatt, Executive Director, International Association of Chiefs of Police

that victims have access to emergency services, counseling, financial assistance, information and referrals, and community programs.

Law enforcement agencies should be prepared to provide crime victims with immediate referrals, verbally and in writing, to private and public community agencies that offer victims emergency treatment, financial assistance, 24-hour crisis intervention, shelter, and transportation. All information should include current contact names and telephone numbers and be provided in appropriate languages. Victims suffering psychological trauma should be given onsite crisis intervention, assistance, and support, either by a trained law enforcement officer or a victim services professional. If victims are injured, law enforcement should transport and accompany them to emergency medical services, and ensure that victims do not have to pay for the cost of collecting medical evidence. Federal, state, and local law enforcement should distribute brochures in appropriate languages on emergency and crisis services, common victim reactions to specific crimes, and crime victim compensation.

Police officers are gaining a renewed understanding of their role as victim advocates. As victim advocates, police officers are an integral part of community efforts to prevent crime, reduce fear, and support victims.

Chief (ret.) Drew Diamond,
Senior Research Associate,
Police Executive
Research Forum

LAW ENFORCEMENT RECOMMENDATION FROM THE FIELD #3

Law enforcement agencies should establish policies for the provision of fundamental victims' rights and services and procedures for their implementation. These policies and procedures should be disseminated in writing throughout the agency.

Law enforcement agencies' policies on victim assistance should reflect an agencywide, comprehensive response to victims and must apply to every professional who interacts with victims, including dispatchers, patrol officers, investigators, and all supervisory personnel. At a minimum, the victim/witness standards for law enforcement agencies developed by the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, the National Sheriffs' Association, and the Police Executive Research Forum, and issued by the Commission on Accreditation for Law Enforcement Agencies in chapter 55 of *Standards for Law Enforcement Agencies*, should be adopted by all law enforcement agencies in the country.[29]

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LAW ENFORCEMENT RECOMMENDATION FROM THE FIELD #4

Compliance with victims' rights policies and procedures should be included as a standard in officers' performance appraisals.

Including compliance with victims' rights policies and procedures in performance reviews emphasizes to officers that providing victims with information about rights and services is a critical part of their job. Background checks of incoming recruits should determine any history of arrests or convictions for domestic violence or other crimes. Moreover, as part of the hiring process for police chiefs, victim-oriented questions should be included in the interview process and candidates should be evaluated on their knowledge about and support of victim-oriented initiatives.

The *Attorney General Guidelines for Victim and Witness Assistance* require that performance appraisals for law enforcement professionals within the U.S. Department of Justice include implementation of and adherence to victim-witness laws.[30]

> *As a first responder, I know that victims feel further anguish when they think they need to restrain their feelings because they will be judged or thought of as crazy. I have seen fellow officers who were not sensitive to the crisis. Why can't they say 'I'm sorry,' that's what crime victims need to hear.*
>
> A Law Enforcement Officer

LAW ENFORCEMENT RECOMMENDATION FROM THE FIELD #5

During their initial contact with law enforcement officers, victims of crime should receive verbal and written information about victims' rights and services. Law enforcement personnel should be required to follow up with victims because many individuals are unable to comprehend assistance and compensation information in the immediate aftermath of being severely traumatized.

Because many victims have trouble focusing on important information regarding rights and services immediately after their victimization due to trauma, law enforcement should provide this information to victims in writing as well as verbally. All information should be provided in an easy-to-understand format, taking into account victims' recent trauma, language, culture, age, and cognitive development. The information should include the names and telephone numbers of officers and investigators they can contact for updates on the case investigation. Some jurisdictions give victims a card, often referred to as a "Reverse Miranda" card, that specifies their rights in accordance with state or federal law. Other agencies, including the Rochester Police Department, give victims a tear-off copy of the incident report that contains victims' rights and services printed on the back. Victims are asked to review and sign the report. Furthermore, all law enforcement reports should include a mandatory victims' rights and services checkoff list to record whether victims received information on rights and services. It is imperative that victims be given information in a manner that is understandable to them.

Agencies should consider developing automated case tracking systems to analyze information related to law enforcement's response to both crimes and crime victims. In agencies in which such programs have been implemented, they have enhanced both compliance and management efficiency.[31]

LAW ENFORCEMENT RECOMMENDATION FROM THE FIELD #6

All law enforcement agencies should adopt written policies and procedures and implement training programs for conducting sensitive and culturally appropriate death notification.

Death notifications should be made in person and with a supportive counselor when possible. In cases involving death, law enforcement agencies should show restraint in releasing information about the incident until appropriate notification can be made to surviving family members. Those who have survived the homicide of a loved one say that the most traumatic moment in their life was the death notification. Likewise, most people who are required to deliver notifications say it is the most difficult part of their job. In one study, 67 percent of police detectives reported that death notifications were "very or extremely stressful" and cited lack of preparation as among the top reasons for their apprehension.[32] It is critical that law enforcement officers be trained on the proper procedures for conducting sensitive death notification to reduce psychological harm to victims and the negative impact on officers faced with this difficult job. This training should include awareness of cultural differences in appropriate death notifications.

While law enforcement agencies need to do their utmost to provide death notification in person, emergency circumstances may require conducting notification by telephone. Agencies should train officers to make the call with professionalism and compassion. Telephone notification should be used only when there is a risk that surviving family members may hear of the death in an insensitive manner from another source such as the media.

LAW ENFORCEMENT RECOMMENDATION FROM THE FIELD #7

State, federal, military and tribal law enforcement agencies must implement victims' rights laws and ensure that victims are regularly notified of the status of the investigation, including arrests, pretrial release of suspects, and case closings.

It is important that law enforcement officers give victims a verbal and written orientation to the investigation process to let them know in advance how the investigation will proceed. Victims should also be given the name, badge number, and telephone number of the investigating officer, as well as the police report number and any other identifying case information. In addition, law enforcement agencies should establish procedures that allow victims to select a support person to accompany them to interviews. Victims should never be charged for a copy of the police report, and procedures should be developed for giving victims a copy of the police report in a timely manner.

If an arrest is made, victims should be notified immediately and given the date, time, and location of the defendant's initial appearance. At this time, victims should receive information about their rights within the criminal or juvenile justice process, including their right to be present at court proceedings and the right to be heard, orally or in writing, at various stages of the case. When a defendant is released, victims should be notified of the date, time, and location of his or her next court appearance. If there is no arrest within 7 days, victims should be contacted and assured that they will be notified of an arrest, provided they maintain a current address, regardless of the length of time between the commission of the crime and the date of arrest. For particular classes of crimes in which bail release is routine, victims should be informed of the time and place of such hearings at the scene of the crime or when the victim is subsequently notified of the arrest. When a case is submitted to a prosecuting attorney's office, victims should be notified of the name, address, and telephone number of the prosecuting attorney or victim/witness liaison. All notifications should be made in appropriate languages.

> *The death of a person is like a chain reaction. So many people left behind are affected.*
>
> The mother of a homicide victim

LAW ENFORCEMENT RECOMMENDATION FROM THE FIELD #8

Law enforcement should place a high priority on protecting victims and witnesses from intimidation and physical harm after they report a crime. Law enforcement

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agencies that operate jails or any temporary custody facilities should, upon request of the victim, immediately notify the victim of a defendant's pretrial release.

All agencies within the justice system, beginning with law enforcement, need to protect victims from intimidation, threats, and actual harm. At the scene of the crime, law enforcement officers should inform victims and witnesses, orally and in writing, about the procedures and resources available for their protection. This information should include an explanation of anti-stalking rights, the availability of emergency protection orders, and other advice on victim safety. Victims should be given advance notice of defendants' pretrial release so that they can take appropriate actions to protect themselves.

> *In the aftermath of sexual violence, victims must deal with a range of persons and systems, from medical examiners to the police to prosecutors and many others. It is essential that training be provided to every person within this multi-disciplinary framework, so that in every encounter the victim has with all these systems, she or he is treated with sensitivity and respect.*
>
> Beverly Harris Elliott,
> Executive Director,
> National Coalition
> Against Sexual Assault

LAW ENFORCEMENT RECOMMENDATION FROM THE FIELD #9

All law enforcement personnel, from dispatchers through management, should receive initial and ongoing training about the impact of crime and how to respond sensitively and effectively to victims.

Training law enforcement personnel to be sensitive to the needs of crime victims must start at the beginning, with recruits at police academies. Continuing education on victim issues for law enforcement officers should occur annually. The Commission on Accreditation for Law Enforcement Agencies has established in-service, roll-call, and advanced training standards that require mandatory training on victim/witness rights, policies, and procedures as part of annual retraining programs for law enforcement agencies. These standards should be expanded to recruit training as well. All training should incorporate instruction on multicultural issues.

Police training programs should include presentations by individual victims or victim impact panels and should address the trauma of victimization, law enforcement's role in responding to crime victims, and mandated duties to implement victims' rights laws. Cases in which these issues are important include sexual assault, child abuse, domestic violence, elderly victimization, homicide, death notification, hate and bias crimes, and drunk driving, as well as robbery, burglary, and white collar victimization. In addition, undergraduate and graduate criminal justice and police science programs should develop courses and concentrations in victims issues.

Training should include instruction for police on interviewing crime victims and incorporate ventilation and validation techniques used by crisis counselors. Officers who use modern interviewing methods such as cognitive interviewing obtain a more complete narrative of victims' experiences and give victims tools to overcome their feelings of trauma.

LAW ENFORCEMENT RECOMMENDATION FROM THE FIELD #10

Police departments should develop specialized responses for family members of officers killed in the line of duty and protocols for responding to injured officers.

When an officer is killed, law enforcement agencies should provide individual and group crisis intervention and ongoing mental health services for surviving family members and other law enforcement agency personnel who may need intervention services. These critical psychological support services can be provided through contracts with local mental health or victim service providers or, in larger departments, by inhouse psychological support personnel. Some officers prefer to receive counseling outside of their police agency because of concerns for confidentiality.

> *When law enforcement officers are murdered, not only does the family lose their loved one, too often they lose their connection with the agency. Law enforcement agencies need to know how to emotionally support their surviving families. This educational process has only just begun.*
>
> Suzie Sawyer,
> Executive Director,
> Concerns of Police Survivors

While it is assumed that public safety agencies pride themselves in "taking care of their own" and respond immediately to assist a fallen officer's survivors, research conducted with surviving family members tells a different story. A study sponsored by the National Institute of Justice in 1990 found that 67 percent of law enforcement agencies surveyed lacked formal policies on responding to the survivors of an officer killed in the line of duty.[33] In addition, the survey found that departments lacked guidelines for providing survivors emotional support beyond the funeral, leaving them feeling abandoned.[34]

In 1984, Concerns of Police Survivors (C.O.P.S.) was founded as a national networking organization to provide peer support to police survivors and to help law enforcement agencies develop workable plans for handling survivors in the immediate, short-term, and long-term aftermath of an officer's death. C.O.P.S. has developed guidelines that address procedural issues as well as emotional support and counseling. The guidelines, which have been distributed to public safety agencies nationwide with the support of the Department of Justice, should be followed by law enforcement agencies working with surviving family members in the aftermath of an officer's death.[35]

The Department of Justice also supports important programs for survivors of officers killed in the line of duty. The Public Safety Officers' Benefits Program, administered by the Bureau of Justice

Assistance, provides financial benefits to eligible spouses, children, and parents of federal, state, and local law enforcement officers, firefighters, and emergency medical technicians killed or permanently and totally disabled in the line of duty.

LAW ENFORCEMENT RECOMMENDATION FROM THE FIELD #11

Law enforcement agencies should establish special protocols to ensure victim participation and confidence in the system when an officer is accused of a criminal offense.

Many law enforcement agencies have had to confront the issue of criminal conduct by their own officers, including allegations of domestic violence, sexual assault, hate and bias crimes, assault and battery, child abuse, stalking, and drunk driving. The Los Angeles Police Department, for example, according to a *Los Angeles Times* article, investigated 62 officers over a 5-year period ending in 1992 for domestic violence allegations but never arrested a single officer.[36] Recently, the department settled a lawsuit by paying over $1 million to surviving family members of a women who was killed in a domestic dispute by a police officer after she had reported previous domestic violence abuse to the police. The practice of not holding law enforcement officers who batter accountable must change.

Measures to encourage victim reporting should be instituted in every law enforcement agency in the nation to deal with cases in which law enforcement officers are accused of criminal acts. A promising approach has been taken by the Chicago Police Department, which has established an Office of Domestic Violence Advocate to encourage abused wives, husbands, and partners of police officers to report domestic violence incidents so that appropriate action can be taken. The advocate works one-on-one with battered victims, and training of police officers and spouses of new recruits complements the advocate's work.

Additionally, law enforcement agencies should screen all employees to be certain that they are not prohibited from possessing a firearm under federal law. Under the Lautenberg Amendment to the Federal Gun Control Act, it is a federal crime for law enforcement officers to possess a firearm or ammunition, including service weapons, if they have been convicted of a state misdemeanor charge of domestic violence.[37] The law applies to convictions before and after its effective date, September 30, 1996. Although other provisions of the federal gun laws (for example, provisions prohibiting possession of firearms by individuals with a prior felony conviction[38] and those under a valid civil restraining order[39]) specifically exempt law enforcement, law enforcement agencies should proactively find ways to keep service weapons out of the hands of those with a history of violence. Agencies should temporarily transfer officers subject to civil protection orders to desk jobs or otherwise relieve them of duties which require use of a firearm. Officers subject to civil protection orders should not be permitted to respond to calls for help from victims of domestic abuse, and their ability to respond to other victims should be assessed carefully.

LAW ENFORCEMENT RECOMMENDATION FROM THE FIELD #12

Procedures for the swift return of property to victims and witnesses should be developed at the federal, state, and local levels to serve as models for law enforcement agencies nationwide. Emergency funds should be made available to victims to replace essential items. Laws providing victims the right to have their property returned within a reasonable period of time should be enacted in all states and on the federal level.

Law enforcement agencies should place high priority on the speedy return of victims' property. They should augment their property identification procedures by providing written instructions to victims to help them assist in the description and retrieval of property held as evidence. When it is not possible to release property held as evidence, an emergency fund should be available in every community to cover the cost of replacing essential property such as a warm winter coat. Victims should never be charged for the storage of their property, and they should be reimbursed for property that is lost, sold, or damaged while held as evidence.[40]

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

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Policies, Protocols, and Procedures for a Comprehensive Law Enforcement Response to Victims of Crime

This chart provides an overview of a comprehensive law enforcement response to crime victims. Law enforcement agencies should establish policies and procedures to clearly define the role of the agency, and various law enforcement personnel in responding to crime victims as outlined below. When law enforcement agencies are unable to provide this type of comprehensive response, it should be the responsibility of the law enforcement agency to take a leadership role in the development of community partnerships to ensure that crime victims have access to the following emergency and on-going victim assistance.

Upon first contact with law enforcement, the responding officer should give victims verbal and written notification of their rights according to state or federal law.

- This can be accomplished by giving the victim a card that specifies their rights in accordance with state or federal law, often referred to as a "Reverse Miranda" card.
- It is imperative that such information be language and age appropriate. Brochures on emergency and crisis services, and crime victims compensation should be developed in different languages—as well as for victims with physical and/or mental disabilities—and distributed appropriately.

Law enforcement agencies should utilize community partnerships to ensure that victims have access to the following emergency services, financial assistance, information and community programs:

- On-site crisis intervention, assistance and support, either by a trained law enforcement officer or through on-site support from a victim services professional.
- Immediate referrals, verbally and in writing, to community agencies that offer emergency services, emergency financial assistance, 24 hour crisis intervention, shelter and transportation. Proper referrals should include current names and telephone numbers of private and public victim assistance programs that provide counseling, treatment and other support services.
- Transportation and accompaniment to emergency medical services if they are injured.
- A brochure or other written resources that explain the expected reactions victims have to specific crimes.
- Written information about crime victim compensation and how to apply for it.
- Victims should not be charged for certain medical procedures or for costs arising out of the need to collect and secure evidence.

Protection from Intimidation and Harm:

- Verbal and written notification about the procedures and resources available for the victim's protection.

- An explanation of anti-stalking rights, availability of emergency protection orders, other protection from intimidation and harassment measures, as well as information on victim safety and security.
- Victim notification of the release of the accused and inclusion of no contact with the victim orders as conditions of the release.

Investigation:

- A verbal and written orientation to the investigation process.
- Procedures allowing a victim to choose an individual to accompany them to interviews.
- The name and telephone number of the law enforcement officer investigating the offense and the arrest, and the police report number or any other identifying case information.
- A free copy of the incident and arrest report.

If an arrest has been made, victims should be notified of:

- The arrest of the defendant.
- Of the next regularly scheduled date, time, and place for initial appearance.
- Any pretrial release of the defendant.
- Their rights within the criminal and juvenile justice processes, including the right to be present at all justice proceedings that the accused, defendant and/or prisoner has the right to attend, and the right to be heard, both orally and/or in writing, at various stages of the case.
- Upon release of a suspected offender, notification of the date, time and place of the next court appearance, and how to obtain additional information about the subsequent criminal proceedings.

If there is no arrest within 7 days:

- Information about the right to notification of arrest, providing the victim maintains a current address, regardless of the length of time between the commission of the crime and the date of arrest.

If the case has been submitted to a prosecuting attorney's office:

- Notification of the name, address and telephone number of the prosecuting attorney assigned to the case.

Prompt property return:

- Speedy return of property held by law enforcement with victims provided with verbal and written information on how to obtain their property.
- Free storage of the victims' property.
- Reimbursement for the actual replacement costs of any property that is lost, sold or damaged while being held as evidence.

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17 *Id.*

18 *Id.* at 2.

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25 *Id.* at 55-1.

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27 Commission on the Accreditation for Law Enforcement Agencies, Inc., *Standards for Law Enforcement Agencies: The Standards Manual of the Law Enforcement Agency Accreditation Program*, 55-1.

28 National Institute of Justice, *Evaluation of Family Violence Training Programs,* Research Preview, Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, November 1995, NCJ FS00925.

29 Commission on the Accreditation for Law Enforcement Agencies, Inc., *Standards for Law Enforcement Agencies: The Standards Manual of the Law Enforcement Agency Accreditation Program*, 55-1.

30 Office of Attorney General, *Attorney General Guidelines for Victim and Witness Assistance*, Article II, C (Exhibit 1).

31 For example; see the Nova Scotia Family Violence System, which tracks domestic violence cases and criminal justice response. The System is used as a tool to analyze and guide policies and practices within the criminal justice system. See also the Juvenile Enterprise Management System (JEMS) program which integrates the functions/processes of child protection, juvenile justice (including delinquency) and law enforcement information.

32 Mothers Against Drunk Driving, *Death Notification: Breaking the Bad News with Concern for the Professional and Compassion for the Survivor*, citing P. Chard, *Grief: Handling Theirs and Yours*, in *EMERGENCY MEDICAL SERVICES*, 16(1) (1987):36-41. Detectives' apprehensions stemmed from (1) feeling untrained and unprepared; (2) over-identifying with the victims families because they genuinely cared about their reactions; (3) personal vulnerability: fear of verbal or physical aggression; and (4) fear of being labeled if they have difficulty—"if you can't stand the heat, get out of the kitchen" attitude of colleagues.

33 Sawyer, S. F., *Support Services to Surviving Families of Line-of-Duty Death*, Concerns of Police Survivors, Inc., Upper Marlboro, MD: (1990):1, citing F.A. Stillman, *Line-of-Duty Deaths: Survivor and Department Responses*, Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice.

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36 Lait, M. and J. Wilgoren, "Council Oks Settlement in Slaying Cases; Suits: City will Pay $2.15 Million to Families of Two Killed by LAPD Officer. Lax Handling of Domestic Violence is Cited," *L.A. TIMES*, February 22, 1997, B1.

37 18 U.S.C. § 922(g)(9).

38 18 U.S.C. § 922(g)(1).

39 18 U.S.C. § 922(g)(8).

40 The Council for Court Excellence has developed a helpful brochure for victims, entitled Recovering Your Stolen Property: How to Get It Back Once the Police Find It. This was included as a national model for criminal justice protocol in *Focus on the Future: A Systems Approach to Prosecution and Victim Assistance*, National Victim Center, American Prosecutor's Research Institute, and Mothers Against Drunk Driving supported by a grant from the U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, (1994).

CHAPTER 3

Prosecution

During the past two decades, many prosecutors working in the juvenile, criminal, federal, tribal, and military justice systems have changed how they respond to victims of crime in significant ways. They have played an active role in helping to implement victims' rights and services nationwide. Heightened sensitivity to the needs of crime victims by prosecutors has helped to increase victim participation in the criminal justice process.

A national survey of prosecutors conducted by the Bureau of Justice Statistics (BJS) in 1990 found that prosecutors are much more responsive to crime victims than they were in 1974, when the National District Attorneys Association conducted a similar survey. The BJS study noted that

> the resources, policies, and practices of prosecutors . . . bear directly on the nation's response to crime. The results from the first national survey of prosecutors in more than 15 years reveal an institution that has had to change to meet new challenges in criminal justice. One important change is the increased attention and assistance being given by prosecutors to victims of crime.[1]

How Prosecutors Are Responding to Victims of Crime

In 1982, the *Final Report* of the President's Task Force on Victims of Crime examined specific areas in which prosecutors could improve their response to crime victims.[2] The Task Force urged prosecutors to:

- Inform victims of the status of their cases from the time of the initial charging decision to determination of parole.
- Bring to the attention of the court the views of victims of violent crime on bail decisions, continuances, plea bargains, dismissals, sentencing, and restitution.
- Establish procedures to ensure that such victims are given the opportunity to make their views on these matters known.
- Charge and pursue to the fullest extent of the law defendants who harass, threaten, injure, or otherwise attempt to intimidate or retaliate against victims or witnesses.

The U.S. Attorney's Office will no longer be just a big concrete and glass building down on Fourth Street where people only go after they've been victimized. Prosecutors will now have names, faces, and phone numbers; they will be working in the community they serve and they will be teaming up with citizens to deter crime.

Eric H. Holder, Jr.,
Deputy Attorney General, and
former United States Attorney,
District of Columbia,
June 3, 1996,
Introducing the Fifth District
Community Prosecution
Pilot Project

- Strongly discourage case continuances, establish on-call systems for victims and witnesses to help prevent unnecessary inconveniences caused by schedule changes and case continuances, and implement prompt property return procedures.
- Give special consideration to both adult and child victims of sexual assault and establish victim-witness assistance programs.

In this section, *New Directions* charts the progress of the nation's prosecutors in putting these principles into practice. It then offers recommendations for further action in areas in which implementation of victims' rights and services has been slow or nonexistent.

One of the most dramatic developments affecting prosecutorial response to crime victims has been the enactment of laws requiring prosecutors to provide fundamental rights to crime victims. According to a study conducted by the Bureau of Justice Statistics in 1994, 86 percent of prosecutors' offices nationwide were required by law to provide services to victims; 82 percent were required to notify victims of the disposition of felony cases concerning them; 60 percent were required to provide victim restitution assistance; and 58 percent were required to assist with victim compensation procedures.[3] However, these legislative mandates have not been implemented by many prosecutors. For example, in a recent study sponsored by the National Institute of Justice, nearly half of all violent crime victims were not informed of plea agreement negotiations, even where they had a legal right to be consulted.[4]

In 1994, there were approximately 2,350 chief prosecutors and 22,000 assistant prosecutors serving the nation's 3,109 counties and independent cities, but nearly half of the U.S. population fell under the jurisdiction of just 127 offices.[5] These offices are located in large metropolitan areas with populations of 500,000 or more, employ large staffs, and often have a greater ability to develop specialized programs and services. Nationwide, the typical size of a prosecutor's office is eight staff members, and nearly one-third of chief prosecutors serve only part-time.[6] The ability of prosecutors to provide specialized victims' services sometimes differs among local prosecutors' offices due, in part, to disparities in the size of and resources available to them. Often, prosecutors in the largest jurisdictions have more resources to establish comprehensive victim assistance programs than do prosecutors in smaller jurisdictions. These obstacles, however, should not preclude all offices from implementing victims' rights and services. Meeting victims' basic needs should be a top priority for every prosecutor in the nation.

On the state level, there is a growing trend among state attorneys general to establish victim assistance programs or to assign personnel

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to provide victim support and services. According to the National Association of Attorneys General, this trend is the result of two forces: the enactment of state victims' rights constitutional amendments and the fact that many attorneys general are former district attorneys who have seen the benefits of providing services for victims in their local jurisdictions.[7]

On the federal level, 93 U.S. Attorneys and more than 4,000 Assistant U.S. Attorneys prosecute federal crimes.[8] Today, almost every U.S. Attorney's office employs a victim/witness coordinator. Recent federal statutes and the *Attorney General Guidelines for Victim and Witness Assistance (AG Guidelines)* require that prosecutors make their "best efforts" to implement federal victims' rights laws.[9]

Increasing Victim Participation During Prosecution

One of the most important and basic rights of victims during prosecution is the right to participate. Victims' satisfaction with prosecutors increases dramatically if they are invited into the decision-making process and given the opportunity to present statements at sentencing and other critical stages. According to a national study conducted from 1992 to 1994 by the National Victim Center, Mothers Against Drunk Driving, and the American Prosecutors Research Institute, with support from the Office for Victims of Crime (OVC), 67 percent of victims were satisfied with prosecutors if they were allowed to present an impact statement. When victims were not given an opportunity to do so, only 18 percent were satisfied with prosecutors.[10]

Victim involvement in key decisions should be a cornerstone of victims' rights in every jurisdiction, but state laws and prosecutors' individual policies vary widely. While victim input into sentencing decisions through the use of victim impact statements or allocution has increased since 1982, victim input at earlier, crucial moments is often ignored. Prosecutors should listen to victims, facilitate their input into prerelease hearings and case continuances, and consult with them prior to entering into plea agreements. Victim input into bail decisions, plea agreements, and case continuances must be increased. Currently, only six states require prosecutors to consult with victims about pretrial release. However, 29 states require prosecutors to "consult with" or "obtain the views of" victims at the plea agreement stage.[11]

Victim input fares much better as the case moves through the criminal justice system. All states now allow some form of victim input into parole decisions, and an increasing number of states allow various forms of input at hearings for work release, furlough, and pardon.

At the federal level, the *AG Guidelines* highlight the significance of attorney consultation with victims regarding pleas. They require

> *Every prosecutor in our office has been institutionally sensitized to the needs of victims. At minimum, we do not lose cases because victims decline to participate; at maximum, our success as prosecutors has been dramatically enhanced. We are, purely and simply, far more able and effective performing our role of protecting the public and ensuring swift, fair, and equal justice.*
>
> **Massachusetts Attorney General Scott Harshbarger, Former District Attorney**

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prosecutors to make diligent and reasonable efforts to consult with victims and witnesses and to provide them with the earliest possible notice of the terms of any negotiated plea, including the acceptance of a plea of *nolo contendere* or the rendering of a verdict after the trial, if the victim has provided a current address or phone number.[12]

Moreover, victims have a basic right to be informed of the status of their case, but state laws designating prosecutor responsibility for case status notification are inconsistent across the nation. There is a wide range in the means of notification required, and not all laws assign responsibility for notification specifically to prosecutors. Without clearly assigned responsibilities, individual prosecutors are left to their own interpretations of statutes or their own sense of responsibility.

> *The days of disposing of criminal cases without consulting with the victim are hopefully gone. Consultation with the victim is a critical part of the case to make sure that victim justice is truly done for every crime victim. It is not justice unless it is justice for both the victim and the defendant.*
>
> Arthur C. "Cappy" Eads,
> District Attorney,
> Bell County, Texas

Protecting Victims and Witnesses from Intimidation and Harm

Responding to threats and acts of intimidation against victims and witnesses is one of prosecutors' greatest challenges. A national survey in 1994 funded by the National Institute of Justice found that intimidation of victims and witnesses was a major problem for 54 percent of prosecutors in jurisdictions with more than 250,000 residents and for 43 percent of prosecutors in jurisdictions with between 50,000 and 250,000 residents.[13]

Statutes enacted to protect victims and witnesses from harm take various forms. For instance, several states have created criminal offenses for intimidating, harassing, or retaliating against a victim or witness.[14] Many states give crime victims a right to protection, either in statute or by constitutional amendment.[15] At least 27 states require that victims and witnesses be informed of the measures that are available for their protection.[16] Other states have enacted pretrial reforms that require the court to consider the safety of a victim or witness in ruling on a pretrial release.[17] More than 30 states have established separate waiting areas for victims and prosecution witnesses that protect them from the defendant and defense witnesses.[18] Many states have more than one protective measure available. In addition, several states have amended their pretrial release laws to require or permit the courts to enter "no contact" orders as a condition of release. At least 17 states permit or require the entry of such orders as a condition of release in cases where there is risk of victim or witness intimidation.[19]

While great legislative strides have been made to enact victim-witness protection laws, the reality is that many victims are still afraid to come forward and report crime to the police because they fear retaliation. This is particularly evident in cases involving victims and witnesses of gang-related crimes and domestic violence. Within the past few years, all 50 states have made stalking a crime by statute, allowing enhanced prosecutorial response to threats of intimidation and harm.[20] Other innovative approaches to victim and witness intimidation are being implemented by prosecutors in communities across the nation.

- In Clark County, Nevada, the District Attorney's Victim Witness Assistance Center provides a variety of services to protect victims and witnesses from intimidation, including assessing their security needs and making arrangements for temporary housing in motels or longer term relocation in public housing. Advocates are available 24 hours a day and work with the police department to provide emergency response to victims or witnesses in danger, including relocation in the middle of the night.[21]
- In February 1994, the Department of Housing and Urban Development (HUD) began a national witness relocation initiative as part of Operation Safe Home, an initiative to reduce drug trafficking and crime in public housing launched by HUD, the Department of Justice, the Department of Treasury, and the Office of National Drug Control. The relocation program allows residents of public housing to move to other public housing across the country so that they can participate as witnesses in criminal prosecutions. The program was developed because many public housing residents have been unwilling to serve as witnesses due to fear of reprisals.[22]

Innovations Beyond the President's Task Force Report

In many areas, it is clear that the system of rights and services available to crime victims throughout prosecution has grown well beyond the recommendations of the 1982 President's Task Force. Notable is the emergence of specialized and vertical prosecution units, multidisciplinary team approaches, community prosecution, crime prevention initiatives, and other programs and policies that have significantly improved the treatment of victims in the criminal justice system.

Special Prosecution Units

Many prosecutors have created special units within their offices to serve victim populations with similar needs, such as victims of domestic violence, sexual assault, and child abuse. Prosecutors in these units receive extensive training in their area of specialization. Cases are handled through vertical prosecution, allowing prosecutors to build rapport with victims by remaining with the case from intake to sentencing. These units ensure that victims do not have to tell their story repeatedly to prosecutors at various stages of the case.

- In Kenosha, Wisconsin, the district attorney has established special prosecution units for domestic violence and sensitive crimes. The Kenosha Domestic Abuse Intervention Program emphasizes speedy disposition of cases. Charging decisions are made within 24 hours, and cases are usually resolved within several weeks. All batterers are required to participate in a mandatory treatment program as a condition of community supervision. The Sensitive Crimes Unit handles all of the county's adult and child sexual assault cases. Both units provide training on domestic violence, sexual assault, batterers' issues, and victim dynamics for all police departments in the jurisdiction.

- In Pinellas County, Florida, the state's attorney's office has designated a prosecutor to handle all elder exploitation and neglect cases. The position, which is part of a special prosecution unit, is responsible for police training and community outreach and education in conjunction with traditional prosecutor roles. To better address the special needs of elderly crime victims during the prosecution of a case, the prosecutor visits victims at their residence to conduct and videotape interviews. The prosecutor can then file motions to perpetuate testimony and to secure a speedy trial pursuant to Florida law.

Innovative Programs for Victims with Special Needs

Many prosecutors' offices have established innovative programs to assist victims with special needs, including non-English speaking victims who need help with translation, elderly victims who need assistance with transportation, and victims with disabilities.

- The Los Angeles County Domestic Violence Council, founded in 1979 as the first joint government-private sector domestic violence program in California and chaired by a member of the district attorney's office, has initiated five innovative approaches to the problem of domestic violence. The council has raised more than $200,000 to fund a domestic violence hotline in five languages; started a children's art therapy program in domestic violence shelters; coordinated a program in which visiting nurses provide services at shelters; funded the construction of two children's playrooms in prosecutors' offices; and developed a computer network to link all domestic violence shelters in Los Angeles County.

- The Victim Services Unit in the Philadelphia, Pennsylvania, District Attorney's Office uses Vietnamese and Cambodian victim-witness coordinators to assist Southeast Asian victims throughout the case process, including translating written and oral information and helping victims access emergency medical and financial assistance. The coordinators conduct crime prevention programs and victim assistance awareness programs for students in local schools.

- The Victim-Witness Assistance Program in the Cook County, Illinois, State's Attorney's Office employs a full-time victim-witness coordinator for seniors, who works in conjunction with the program's disability specialist and the office's Elderly Abuse Unit. The coordinator performs traditional functions of the victim advocate such as attending court, arranging for transportation to and from the courthouse, and ensuring the availability of wheelchairs and assistance in the courthouse. The program also addresses the needs of other special population groups. Advocates have been assigned to assist gay and lesbian victims and witnesses and to victims and witnesses who are physically disabled.

Another important area of progress for prosecutors has been their leadership in establishing or participating in multidisciplinary teams for the investigation and prosecution of child abuse. Multidisciplinary teams bring together professionals from different disciplines in one location to respond to a specific crime. By using this coordinated response, prosecutors reduce the number of times a child victim must be interviewed and significantly diminish the likelihood that a child will be revictimized by an insensitive criminal justice system.

- In Huntsville, Alabama, the district attorney established the nation's first children's advocacy center in 1984 to reduce the trauma the system was inflicting on children during the investigation and prosecution of child sexual abuse cases. Rather than requiring children to retell their story through repeated interviews and examinations by law enforcement, prosecution, medical, mental health, and social services agencies, the district attorney created a multidisciplinary approach in which all of these professionals work together. Today, over 350 advocacy centers have been established in 48 states.[23]

- In Santa Cruz, California, prosecutors established a central multidisciplinary interview center at a local child care center to coordinate the efforts of law enforcement agencies in sexual abuse cases. The center contains state-of-the-art technology for videotaping and one-way observation of interviews. All local law enforcement agencies have agreed to use the center's designated interviewer to avoid any legal conflicts over the interview process. The assistant district attorney participates in each interview, and a child protective service worker observes the child's responses to determine if he or she should be returned to a home where an alleged molestation has been reported.

Community Prosecution

Increasing numbers of prosecutors' offices are adopting the philosophy of community prosecution. Traditionally, the prosecutor has served as a public jurist or sanction setter, seeking indictments and convictions after police investigations. The two essential features of community prosecution are working in the community to identify problems that are detrimental to the quality of life in the community and solving those problems through community action and the application of civil and criminal laws. Today, prosecutors are expanding their roles as community leaders through establishing interdisciplinary partnerships with other governmental and private agencies and becoming more visible to the public. Some jurisdictions have even decentralized the prosecutor's main office and established satellite offices that are more responsive to the neighborhoods in which they are located. In Santa Monica, California, prosecutors trained in child victimization work onsite at Stuart House, the local children's advocacy center, coordinating cases with law enforcement offices from several jurisdictions and the team of social workers and advocates assigned to the facility.

For community prosecution to work, prosecutors must address the root causes of crime and examine systemwide approaches to assisting crime victims. By taking this broader approach, prosecutors can accomplish a multitude of objectives not possible with the traditional, narrow focus of punishing actions in a single case.

- The U.S. Attorney's Office in the District of Columbia has created a community prosecution program in the Fifth Police District to work with residents to respond aggressively to the crime problems that afflict their neighborhood. Nineteen prosecutors have been assigned to the project. Their proactive approach to crime prevention, intervention, and victim assistance emphasizes organizing community activism, identifying the problems in the community that breed crime, bringing together individuals in the community who can solve these problems, attending community meetings, and getting out on the streets and talking to residents and shopkeepers about the program. The prosecutors are solely responsible for handling all criminal cases within the Fifth Police District and do not take other cases that could divert their resources and attention. Two prosecutors in the program work in the district police station to serve as a direct link between the community and the U.S. Attorney's Office.
- In Wisconsin, an interesting approach to providing input from a neighborhood in which a crime has been committed was developed by the District Attorney for Milwaukee, Wisconsin, and the U.S. Attorney for the Eastern District of Wisconsin. These prosecutors encourage members of the community to submit community impact statements to the court. Their statements, which are generally used in cases involving drugs, prostitution, gangs and graffiti, provide a vehicle for neighborhoods affected by an offender's criminal acts to inform the court about the crime's impact on them, both individually and collectively.

- Multnomah County, Oregon, District Attorney Michael Shrunk calls his program the "Neighborhood District Attorney" to emphasize that prosecution is not the primary activity of the attorneys assigned to the program. As one of his deputies said, "We are attorneys for our districts, seeking to solve problems and using the law only when necessary." The role of the Neighborhood District Attorney is to help develop and implement long-term strategies that address problems in the community in order to enhance its quality of life.

The Role of Prosecutors in Crime Prevention

Increasingly, prosecutors are becoming involved in crime prevention programs in their communities, and many have initiated such programs in cooperation with schools. Prosecutors have firsthand knowledge that truancy contributes to juvenile crime; that it is often too late to change patterns of truancy once a child reaches junior high or high school; and that if older brothers and sisters are truant, younger siblings will often follow in their footsteps.

- In St. Joseph, Missouri, the city's prosecuting attorney started one of the nation's first grade school truancy prosecution programs. The program allows the prosecution of parents for their children's truancy under a state statute addressing educational neglect. Parents are prosecuted only after failing to respond to a written notice from the school and the prosecutor's office of school policies and state laws mandating attendance. The jurisdiction of approximately 80,000 residents prosecutes an average of 35 truancy cases a year. According to the city prosecutor, the program has improved school attendance.

Finally, the following innovative program illustrates how prosecutors can work more effectively to reduce drunk driving.

- The District Attorney's Office in Santa Cruz County, California, is developing a unique program to respond to alcohol-impaired drivers called STAR-DUI. A creative extension of the "Neighborhood Watch" concept, the program will allow motorists who observe other vehicles weaving or driving erratically to use their cellular telephones to place cost-free calls to police dispatchers by dialing *DUI. Whenever possible, on-duty officers will then stop the reported vehicle and evaluate its driver for symptoms of intoxication. In cases in which the suspect vehicle cannot be located, the registered owner, as indicated by the reported license plate, will be sent a letter from the District Attorney's Office advising him or her of the DUI report and the criminal penalties that are imposed for DUI violations. Repeat mentions of a suspect from callers will trigger the police to start a special investigation and prosecution effort. The program will be publicized through a series of public service announcements in the local media.

Recommendations from the Field for Prosecutors

The following recommendations cover policy, procedure, and program reforms for prosecutors to implement to enhance victims' rights and services. Because of the varying capabilities of prosecutors' offices around the country, the prosecutors' working group that helped to develop and review these proposals emphasized that some of the recommendations may not be practical for all offices, especially ones with small staffs. The group also expressed concern that consultation with victims might not be practicable in every case, especially in cases involving large numbers of victims or when law enforcement objectives would be undermined, such as in cases involving confidential informants. At a minimum, prosecutors should ensure that crime victims receive notice of their legislatively and constitutionally mandated rights and provide information and referrals about available community-based services.

PROSECUTORS RECOMMENDATION FROM THE FIELD #1

Prosecutors' offices should notify victims in a timely manner of the date, time, and location of the following: charging of defendant, pretrial hearings, plea negotiations, the trial, all schedule changes, and the sentencing hearing. Timely notification, orally or in writing, of advanced scheduling should be provided in relevant languages. Statutes should require prosecutors to verify notifications with documentation in case files or through another mechanism.

Informing crime victims about key events within the justice system so that they will have a chance to exercise their rights of participation is critical. Today, laws requiring victim notification of arrest, pretrial hearings, the trial, schedule changes, sentencing, parole hearing, and release from incarceration have been enacted in most states.

However, clear statutory or constitutional language is needed in each state to define the type of case notification that prosecutors should provide. Not only do state statutes vary in the types of notification required, few assign responsibility for implementation to specific criminal justice officials. Without strict definitions of what their responsibility entails, prosecutors are left to their own interpretations. In states where the prosecutor's responsibility is specifically designated, such as Missouri, prosecutors have been much more effective in addressing this issue.

An OVC-sponsored project entitled *Focus on the Future: A Systems Approach to Prosecution and Victim Assistance,* conducted by the National Victim Center in partnership with the American Prosecutors Research Institute and Mothers Against Drunk Driving, identified over 30 additional types of notifications throughout the criminal justice process, a number well beyond current statewide statutes and practices.[24] A model bill of rights with specific prosecutorial notification provisions was developed by a coalition of national victims organizations in the early 1990s.[25]

To reach all victims in the community, particularly populations underserved due to barriers of language, culture, and disability, notification should be provided in the manner and means most likely to effect actual notice, such as using appropriate languages and media.

PROSECUTORS RECOMMENDATION FROM THE FIELD #2

Prosecutors should establish victim-witness assistance units to ensure that victims of crime receive at least a basic level of service, including information, notification, consultation, and participation. Prosecutors' offices should develop and incorporate into performance evaluations written definitions of the roles and responsibilities of prosecuting attorneys, victim-witness professionals, and other relevant staff and volunteers.

The 1982 President's Task Force noted that "experience has shown that the only way of ensuring that the needs of victims and witnesses are met is to have a separate unit solely dedicated to their assistance. Prosecutors, police, court personnel, and others in the criminal and juvenile justice systems are already overworked; moreover, these professionals may have to direct their primary efforts in ways not always consistent with response to victim needs." Although today many prosecutors' offices have victim-witness assistance units, national standards have not been adopted to ensure continunity and quality of services. In addition, to emphasize the importance of providing victim-witness services, evaluations for prosecutors and victim-witness coordinators of their performance in this important area should be a critical element of their performance reviews.

Prosecutors have an obligation to continue to improve and expand services to victims of crime, to speak on behalf of the victim, and to protect the victim from any injustice. Prosecutors must continue to sensitize all members of the criminal justice system to treat victims like people, not pieces of evidence.

Harold O. Boscovich,
Director, Victim/Witness
Assistance Division,
District Attorney's Office,
Alameda County, California

PROSECUTORS RECOMMENDATION FROM THE FIELD #3

Prosecutors should use the full range of measures at their disposal to ensure that victims and witnesses are protected from intimidation and harassment. These measures include ensuring that victims are informed about safety precautions, advising the court of victims' fears and concerns about safety prior to any bail or bond proceedings, automatically requesting no-contact orders and enforcing them if violated, and utilizing witness relocation programs and technology to help protect victims.

The President's Task Force stated that prosecutors should "charge and pursue to the fullest extent of the law defendants who harass, threaten, injure or otherwise attempt to intimidate or retaliate against victims or witnesses."[26] Victim and witness intimidation and harm remains one of the greatest threats to the proper functioning of the criminal and juvenile justice systems. Victims and witnesses are often threatened or harassed by defendants and their friends and relatives, and in many cases it is difficult for prosecutors to file charges of intimidation because the perpetrator is not identifiable.[27]

Prosecutors should always ask victims a simple question: "Are you afraid?" and then ensure that victims and witnesses are routinely given information on remedies such as restraining orders and protective orders to help reduce the likelihood of intimidation and harassment. To help protect victims of violent crimes, prosecutors should make every effort to collect victim impact evidence prior to pretrial release proceedings so that victims' fears and concerns about safety can be addressed. Victims should be encouraged to make an oral statement at these hearings.

In cases in which victims submit sworn statements asserting harassment, threats, physical violence, or intimidation by the defendant (or at the defendant's direction) against the victim or the victim's immediate family, the prosecuting attorney should request that the defendant's bail or release on personal recognizance be revoked

When necessary, prosecutors should establish or use existing witness relocation programs, including those offered through the U.S. Department of Housing and Urban Development, in which witnesses who fear reprisal are transferred to safer housing. Technology is

> *As doctors rely on nurses for the skilled continuum of care, prosecutors find that advocates provide the daily connection, knowledge, and compassion to guide victims through the justice labyrinth. The advocate's expertise is not the law, rather the resuscitation of lives devastated by those who violate the law.*
>
> Vicki Sharp, Director,
> PIMA County Attorney's Office
> Victim Witness Program,
> Tucson, Arizona

expanding the range of protection measures that prosecutors can use to increase victim safety. Among the most effective tools now used to protect victims and witnesses are cellular telephones, alarm systems that notify police directly, and electronic bracelets to track defendants' movements.

PROSECUTORS RECOMMENDATION FROM THE FIELD #4

Prosecutors should address criminal and juvenile justice problems that afflict their communities by exploring the establishment of community prosecution programs as an adjunct to traditional prosecution. Prosecutors should recognize the important role that they can play in reducing crime and should use the authority of their office to support effective crime prevention strategies tailored to the cultures and language needs of their communities.

Like community policing, community prosecution brings an organized justice response to the public safety needs of a neighborhood. This innovative approach to prosecution is currently being implemented and evaluated by some prosecutor's offices across the country. Over the next few years, these efforts will show the impact of this new philosophy of prosecution. Prosecutors across the nation are establishing crime prevention programs and participating in community coalitions. They go into schools and talk to youth about their offices' vigorous prosecution policies against youth crime. For children who may not yet grasp the consequences of crime, hearing from prosecutors can make a difference. Prosecutors are also participating in public awareness campaigns, and these crime prevention efforts should be expanded. In all of their community prosecution initiatives, as in Portland, Oregon, prosecutors should ensure that staff include victim advocates and reflect the cultures and languages of the community.

PROSECUTORS RECOMMENDATION FROM THE FIELD #5

Prosecutors should play a central role in establishing multidisciplinary efforts to respond to crime.

The concept and practice of prosecutors forming and joining multidisciplinary teams has become widely accepted. The power of employing a multidisciplinary response to crime was first shown in the handling of child sexual abuse cases. As noted earlier in this chapter, more than 350 children's advocacy centers now exist across the nation. In many of these facilities, prosecutors work alongside other professionals such as police, medical and mental health personnel, victim advocates, and child protection workers. Some prosecutors have adapted this multidisciplinary approach to prosecuting sexual assault and domestic violence cases as well.

PROSECUTORS RECOMMENDATION FROM THE FIELD #6

Prosecutors should advocate for the rights of victims to have their views heard by judges on bail decisions, continuances, plea bargains, dismissals, sentencing, and restitution. Policies and procedures should be put into place in all prosecutors' offices to ensure that victims are informed in a timely manner of these crucial rights in forms of communication they understand.

Victim input into key prosecution decisions is a cornerstone of victims' rights. However, state law and individual prosecutor policy in this area varies widely. Since the President's Task Force, victim input into sentencing decisions through victim impact statements or allocution has increased dramatically. In other decisions such as plea bargains and release on bail, victims are often not provided rights for consultation under state statute. Nevertheless, prosecutors can advocate for the voices of victims to be heard in their courtrooms. Even in states that have passed victim participation statutes and constitutional amendments, many prosecutors' offices lack policies and procedures to ensure such participation.

All states have passed laws that allow some form of submission of victim impact information either at the time of sentencing or in the presentence investigation report, but studies show that most crime victims do not submit victim impact statements. While some victims choose not to submit a victim impact statement, many do not because the prosecuting attorney fails to inform them that they have such a right. More than three-quarters of violent crime victims surveyed in states with weak victims' rights protections reported that they were not given an opportunity to make a victim impact statement. Even in states with strong protections for victims' rights, nearly half of victims surveyed said they were not given an opportunity to make a statement.[28] One study has found that when crime victims are encouraged to contribute information about their victimization, over 90 percent do so.[29]

PROSECUTORS RECOMMENDATION FROM THE FIELD #7

Prosecutors should make every effort, if the victim has provided a current address or telephone number, to consult with the victim on the terms of any negotiated plea, including the acceptance of a plea of guilty or *nolo contendere*.

Because such a large percentage of felony cases are disposed of by plea agreements and sentencing is often negotiated as part of the plea agreement, it is essential for prosecutors to seek victim input before finalizing plea or sentencing agreements. While time constraints and overwhelming caseloads make it difficult for prosecutors to delay recommendations for sentences as part of plea agreements, in violent crimes prosecutors should request judges to postpone any recommendation for sentence until the victim is notified, consulted, and provided with an opportunity to submit an impact statement.

There are clearly times when the prosecutor cannot ethically abide by the victim's preferences, as when it would defeat an obligation to accord similar sanctions for similar crimes, or the evidence cannot sustain a conviction at a higher level. There are also times when the prosecutor can neither accept the victim's wishes nor explain the reason for a contemplated plea agreement, such as when the defendant is cooperating with an ongoing investigation or working undercover.

In these cases, prosecutors should not avoid conferring with victims, who will likely learn about the "lenient" plea and call the victim-witness advocate to demand an explanation. A better technique is for the prosecutor or advocate to confer with victims beforehand and indicate at the end that a plea to a lesser crime may be accepted on "public policy" grounds, which can be described in writing in published prosecutorial guidelines. The prosecutor or advocate should then explain that one or more of those legitimate grounds will guide the final decision. Victims may be upset with such a partial explanation, but less so than having their right to consultation ignored. If a victim raises an objection to the plea at the subsequent hearing, it is appropriate for the prosecutor and defense attorney to inform the court privately about the basis of the plea. In addition, in cases involving large numbers of victims and some other special circumstances, representatives of prosecutor and victim organizations should meet to develop protocols for an effective response.

PROSECUTORS RECOMMENDATION FROM THE FIELD #8

In all cases, particularly those involving sexual assault, the prosecuting attorney should confer with the victim or survivors before deciding not to file charges, or before deciding to seek dismissal of charges already filed.

According to state court data, about one in five criminal cases is resolved by a prosecutorial decision not to continue or by a court ruling to drop the charges.[80] It is critical that victims have a voice before such a momentous decision is made final. Victims have a vital interest in knowing what is happening with the prosecution of the person charged with the crime against them. It is particularly important for sexual assault victims to have a voice before the important decision of not moving forward with a case is finalized. Speaking with these victims before making a filing decision also benefits the prosecutor by providing another opportunity to evaluate victim credibility. In some cases, prosecutors may change their mind about declining to prosecute because they recognize that the victim will make a good witness.

While prosecutors decline to file charges in many cases brought to them by law enforcement and others, it is often a difficult decision. For a victim, not knowing why the crime was not prosecuted makes their experience even more painful. It is good practice in all cases to confer with victims and survivors regarding filing decisions so they have a clear understanding of the status of the case. The prosecutor should explain the decision not to bring charges and advise the victim of other options they may have available to them, including in some cases filing a civil lawsuit.

PROSECUTORS RECOMMENDATION FROM THE FIELD #9

Prosecutors should establish policies to "fast track" the prosecution of sexual assault, domestic violence, elderly and child abuse, and other particularly sensitive cases to shorten the length of time from arrest to disposition. Prosecutors should encourage judges to give top priority to these cases on the trial docket and should try to ensure that the case goes to trial when initially scheduled.

Victims complain that delays and continuances are one of their primary frustrations with the criminal and juvenile justice systems. States need to examine victim-oriented speedy trial laws and establish realistic time limits for case prosecution. When continuances cannot be avoided, prosecutors should notify victims and witnesses as soon as possible to prevent inconvenience and costs such as child care, transportation, and time lost from work. In addition, procedures should be established to ensure that cases are continued to dates agreeable to victims and witnesses, and those dates should be secured in advance whenever possible. Reasons for continuances should be explained on the record.

Arguing that delays and continuances can result in the "unavailability of some witnesses and the fading memory of others," the President's Task Force recommended that prosecutors "vigorously oppose continuances except when they are necessary for the accomplishment of legitimate investigatory procedures or to accommodate the scheduling needs of victims."[51] Case continuances prolong and intensify the victimization experience and related trauma. They are sometimes used as a defense tactic to discourage victims from participating in the system. According to the Task Force, "whenever possible it should be determined in advance if a continuance is to be granted and the victim should be informed."[52] This recommendation remains valid today.

On the federal level, U.S. Attorneys now routinely use the speedy trial provision in the Federal Rules of Criminal Procedure to expedite cases involving child victims.[53] The Federal Rules state that "in a proceeding in which a child is called to give testimony, on motion by the Attorney for the Government or guardian ad litem, or on its own motion, the court may designate the case as one of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other."[54]

PROSECUTORS RECOMMENDATION FROM THE FIELD #10

Prosecutors' offices should use technology to enhance the implementation of victims' rights.

The President's Task Force was farsighted in recommending in 1982 that prosecutors' offices use an on-call system for victims and witnesses to help prevent unnecessary inconveniences caused by schedule changes and case continuances. Today, the on-call method is a basic service provided by prosecutors and the courts. In hearings conducted across the nation, the Task Force heard countless testimony from victims and witnesses who had appeared for a hearing or trial, ready to cooperate, only to be told to leave and return another day.

> *Across the country, many citizens have lost faith in the criminal justice system. For years, victims have been treated as mere afterthoughts, expected to be there to testify when needed, but otherwise not informed, not consulted, and not made whole. Indeed, it seems that for many years the only right that a victim had was to be present at the scene of the crime. Those harmed most by crime must be afforded justice — not only those accused of crime.*

Richard M. Romley,
County Attorney,
Maricopa County, Arizona,
Stated in the January/February
1997 edition of
The Prosecutor, a publication of
the National District Attorneys
Association

The Task Force believed that such a system would benefit the justice system as well by reducing witness fees and police overtime pay.

Prosecutors should play a leadership role in encouraging uses of technology that benefit victims. They can encourage judges to allow distance viewing of proceedings by victims, especially in cases where there have been changes in venue. This was accomplished with great success in the Denver trials of the bombing of the Alfred P. Murrah Federal Building. In those trials, victims watched the proceedings in Denver, Colorado, from a site in Oklahoma City via a closed-circuit broadcast. In the future, victims should have the ability to watch proceedings or provide a victim impact statement from their home or worksite via an interactive linkup.

To assist victims in the federal justice system, President Clinton recently called upon the Attorney General to adopt a nationwide automated victim information and notification system.[35] In November 1997, Congress authorized $8 million in funding for such a system which is in the process of being developed by the Department of Justice.

PROSECUTORS RECOMMENDATION FROM THE FIELD #11

Prosecutors should adopt vertical prosecution for domestic violence, sexual assault, and child abuse cases.

When a typical case comes into a prosecutor's office, less experienced prosecutors are often assigned to handle preliminary matters such as pretrial release hearings, arraignments, and preliminary hearings. Cases prosecuted as felonies are often reassigned to more experienced prosecutors to serve as trial attorneys. While this practice is useful to give new attorneys experience and allow seasoned attorneys to prepare for trial or plea negotiations, it can be very upsetting to victims by forcing them to retell their story to another attorney with whom they have not yet developed a trusting relationship.

Vertical prosecution prevents this discomfort by retaining the same prosecutor on a case from intake to disposition, just as the defendant generally has one attorney throughout. Moreover, vertical prosecution allows prosecutors to develop expertise on specific types of cases and resources available to assist each type of crime victim.

PROSECUTORS RECOMMENDATION FROM THE FIELD #12

Prosecutors should work closely with victim service providers as well as victims of domestic violence to establish appropriate prosecution policies and support research to assess the effectiveness of proceeding without victim testimony in domestic violence cases.

While some prosecutors have instituted blanket "no drop" policies in domestic violence cases, such a policy removes from victims the power to determine dismissal of charges in domestic violence cases and may, as a result, place victims in danger of further violence. Many prosecutors employ this policy to help eliminate the alarming number of domestic violence cases that simply fall out of the criminal justice system with no adverse consequences to the batterer. "No drop" policies should be modified to ensure that case by case determination is made of the safety of proceeding without a victim's testimony in each domestic violence case. Input from the victim is critical to the effective and safe resolution of domestic violence cases.

Just as every law student learns about the rights of the accused, so should they learn about the rights of victims.

PROSECUTORS RECOMMENDATION FROM THE FIELD #13

Victims' rights and sensitivity education should be provided to all law students as part of their basic education in law school and to all prosecutors during their initial orientation and throughout their careers.

Law school graduates hired as prosecutors are unlikely to have received any training regarding the impact of victimization or the rights of crime victims. While law schools offer courses on criminal law and procedure, the majority still do not provide specialized courses on victims' rights.

Prosecutors' offices should provide comprehensive courses on victims' rights and services for new prosecutors as well as continuing education for all staff. Without thorough education on victims' rights, inexperienced lawyers entering the profession will have little if any knowledge on the rights and needs of crime victims. All education should include instruction on victims with disabilities and multicultural issues, and trainers for all subjects should include a diverse array of knowledgeable professionals and volunteers, including victims of crime.

Increasingly, states are requiring that attorneys receive continuing legal education on certain victims' issues. Arkansas, California, Illinois, Maryland, and Tennessee, for example, have statutorily mandated that prosecutors handling child abuse cases receive specific continuing legal education in these critical areas. Integrating domestic violence issues, as well as other victims' issues, into legal and prosecutor education programs will improve the ethical standards of the legal profession, as well as produce better representation for victims.

PROSECUTORS RECOMMENDATION FROM THE FIELD #14

Prosecutors' offices should establish procedures to ensure the prompt return of victims' property, absent the need for it as actual evidence in court.

The 1982 President's Task Force recommended that prosecutors recognize their responsibility "to release property as expeditiously as possible, to take the initiative in doing so, and to establish the procedures necessary to bring about the expeditious restoration of property to its lawful owner."[56] To do this effectively, the Task Force recommended that prosecutors work with law enforcement and the judiciary to develop procedures and protocol for expeditious property return.[57]

Today, all states have passed expedited property return laws. Most laws conform with the advice of the Task Force. While some items may need to be retained for admission during the trial, items that can be presented to the jury just as effectively by a photograph should be returned to the victim.

State law is often unclear on who has the absolute responsibility to establish property return procedures. A patchwork of property return policies exists nationwide. In many jurisdictions victims must pay storage fees for recovered vehicles, or their property is sold at police auctions before they can claim it.

In 1989, the Council for Court Excellence developed a guide, *Recovering Your Stolen Property: How to Get it Back Once the Police Find It*, that was included as a national model for criminal justice protocol in the OVC-funded *Focus on the Future: A Systems Approach to Prosecution and Victim Assistance.*[58] Similar property return guides should be developed and distributed to victims nationwide.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

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CHAPTER 4

The Judiciary

Many victims and their families feel that they are the stepchildren of the criminal justice system, that their rights and concerns are misunderstood or ignored. In communities across the nation, victims are denied a voice in decisions to release defendants on bail despite having legitimate safety concerns, and they are not notified when defendants are released. Too many victims also are not notified when the court changes its schedule even though they have taken time off from work, arranged for child care, and paid for transportation.

> *The courtroom is the focal point of the entire criminal justice system. . . The judge who presides over a court becomes not only the final arbiter of each evidentiary and procedural issue, but also establishes the tone, the pace, and the very nature of the proceedings. Particularly for the victim, the judge is the personification of justice.*[1]
>
> Lois Haight,
> California Juvenile
> Court Judge and Chair of
> the 1982 President's Task
> Force on Victims of Crime

While plea agreements offer an efficient means for court systems to manage overwhelming case loads, they are routinely finalized without input from, consultation with, or notification of victims, denying millions of victims their rights to be informed about and have input into the justice process. Many victims are still not informed of sentencing hearings or of their right to submit a statement about the financial, physical, and emotional impact of the crime despite the enactment of victim impact statement laws in every state.[2] Moreover, the costs of crime can be devastating, but judges too often overlook victims' financial hardship by failing to order restitution or provide appropriate conditions for its collection.

Judges play a crucial role in the day-to-day implementation of victims' rights. Judges, after all, control the courtroom and make rulings that will affect the court's observance of victims' rights to be present, notified, and heard. At the same time, judges have an obligation to ensure that the criminal justice process is impartial and fair, and many judges feel constrained about giving what they consider to be "special treatment" to crime victims.

Addressing these concerns requires a fundamental shift in viewpoint to allow judges and other court personnel to see the protection of victims' rights and services under law not as "special," but as appropriate and just. The practices and recommendations discussed in this section attempt to do this while holding true the balance judges must keep among the competing and often contradictory interests of vigorous prosecution and defense.

Progress Since the President's Task Force

The *Final Report* of the President's Task Force on Victims recognized the important role of judges in ensuring the rights of victims as well as defendants. The principal Task Force recommendations for the judiciary included:

- Developing and participating in training programs on the needs and interests of crime victims.
- Implementing procedures and court processes with sensitivity to the needs of crime victims, including ensuring that separate waiting areas are provided for prosecution and defense witnesses and permitting victims and witnesses to be on call for court proceedings.
- Giving the same weight to the interests of victims and witnesses as that given to the interests of defendants when ruling on requests for continuances.
- Facilitating the victim's efforts to be present and, where relevant, heard during essential phases of the proceedings.
- Understanding the impact of crime on victims and ensuring sensitivity to their needs in the handling of cases.

Many of these recommendations have been addressed by legislative changes at the state and federal level, as well as by victims' rights constitutional amendments in 29 states. However, it is difficult to measure how well courts are implementing this legislation and recommendations calling for judges to "recognize" and "give weight to" the needs of victims at appropriate junctures of the justice process.

Almost immediately after the Task Force issued its recommendations, the U.S. Department of Justice, the National Conference of Special Court Judges of the American Bar Association, and the National Judicial College cosponsored the 1983 National Conference of the Judiciary on the Rights of Victims of Crime. The participants of the conference represented courts of general and special jurisdiction in all 50 states, the District of Columbia, and Puerto Rico. The conference adopted a ***Statement of Recommended Judicial Practices*** which further articulated and provided specific direction for implementing the recommendations in the Task Force's *Final Report*.[3] In addition, in 1984, the Attorney General's Task Force on Family Violence issued recommendations for the judiciary for dealing specifically with victims of family violence.[4]

Since these events, some judicial training programs and conferences such as those held by the State Justice Institute, the National Judicial College, and the National Council of Juvenile and Family Court Judges have made a practice of offering participants educational programs on victim issues. Recently, the California Judicial College made training on victims' rights mandatory for new judges.

Judicial Concerns About Implementing Victims' Rights

Before discussing ways in which judges can help victims have a greater voice in the justice process, it is important to acknowledge the traditional concerns of judges about taking a more active role for victims. In 1997, a focus group of a dozen judges and judicial administrators from diverse regions of the country identified why many in the judiciary have not viewed the enforcement of victims' rights as part of their courtroom duties.[5]

According to the focus group, many judges find it difficult to view victims as having a legitimate role in the justice process because they are not official parties to the criminal proceedings.[6] Judges are also sometimes unaware of the laws setting forth victims' rights and the specific services to which victims are entitled.[7] Moreover, judges often worry that paying "special" attention to victims other than as witnesses for the prosecution impinges on the impartiality of the court and creates the appearance of impropriety.[8]

Judges typically have little or no training on the impact of violent crime on victims and their families, how victims feel or experience the criminal justice system, their grieving or healing processes, and appropriate judicial conduct toward victims. The judge's control of the courtroom and the rules of evidence are designed to avoid surprises, control all participants including witnesses and spectators, and minimize emotional outbursts. Victims' expressions of emotional trauma, fear, anger, confusion, and psychological scarring in the courtroom can be an unsettling prospect and a threat to courtroom control.

In a civilized society, members of the judiciary serve as the collective guidon of the banner representing fairness and impartiality, both for the criminally accused as well as the intended victim.

Chief Justice Richard Barajas,
Texas Court of Appeals,
El Paso, Texas

Moreover, traditional court organization and administration do not encourage problem solving approaches in cases. Limited resources, crowded dockets, and statutory requirements to process cases within certain time limits often cause even well-intentioned judges concern about opening up the process to victim input. Finally, the focus group noted that many judges believe that victims increase media and public attention on the court proceeding, often casting judges in an unfavorable light.

Encouraging Judicial Leadership

Judges are uniquely situated to bring together institutions in the community, including schools, hospitals, and social service agencies, that can solve the wide range of problems that bring offenders and the people they victimize to the justice system. By forging public-private partnerships, these institutions make maximum use of limited resources.

As community leaders, judges can and should be catalysts for coordinating the delivery of services to both victims and offenders. When judges take a problem-solving approach to administering justice, the result is greater outreach to the community and greater community access to the justice system.

- The Municipal Court of Tucson, Arizona, was one of several partners including the police, victim advocates, prosecutors, and health care professionals in establishing a Community Domestic Violence Awareness Center. The center's victim advocates provide information on domestic violence and assist victims in obtaining protection orders, either through an interactive video system or by personally taking the victim to the city court. During evening hours, weekends, and holidays, a judge is on duty at the center, where victims can appear and seek assistance.
- In Santa Clara County, California, and a growing number of other local jurisdictions, the judiciary has taken the initiative in establishing local family violence councils to provide "a comprehensive response to domestic violence which addresses prevention, public education, intervention, and corrections including treatment and rehabilitation."[9] Mandated by the Violence Against Women Act of 1994 as a requirement for communities to qualify for funding, localities across the nation are now organizing such councils.[10] The councils have led to the creation of new community partnerships and adjudication alternatives for batterers and enhanced victim assistance and referral networks.
- In New York, the state has begun an initiative through its Permanent Judicial Commission on Justice for Children to provide assistance to children in the courts, particularly children under 5. The Commission's efforts have focused on promoting early intervention for at risk children by establishing child care centers in courts across the state that give children whose parents are in court a safe haven. The child care centers allow the courts to conduct business more efficiently, but more important, they provide children sorely needed educational, nutritional, and social services. The New York State Office of Court Administration has been instrumental in raising and sustaining support for maintenance and expansion of the centers. In June 1994, a Court Rule was issued in the state requiring all new construction or renovation in court facilities to set aside space for child care.

Judicial leadership is the single most important factor in the criminal justice system for supporting victims' rights. Judges have a unique role in implementing existing law and creating new, innovative solutions to old problems.

Hon. Mary C. Morgan (ret.),
Municipal Court of the City
and County of San Francisco,
California

Judges also have an affirmative obligation to explain to the public what courts do. One example is Navajo Justice Day, in which the Navajo Tribal Court sponsors an open house for the community and the media to learn about all aspects of the judicial system. Another innovative approach is the Wisconsin Supreme Court's court-community collaboration, which emphasizes outreach to citizens to inform them about the work of the courts and public input into how to make the justice system more responsive.[11]

Restructuring Courts to Solve Problems

The court's traditional emphasis on procedural rights has led judges in many instances to neglect other aspects of their mandate to do justice. Many people, including victims, bring problems to the system that need attention. In some jurisdictions, judges are addressing the needs of offenders *and* victims with a new focus on restorative community justice that involves the community, holds the offender accountable through punishment and supervision, and helps the victim to heal.

A good example of judicial leadership to help victims through problem solving is the pioneering use of neighborhood or community impact statements in cases involving drug crimes. Traditionally, drug crimes have been considered "victimless" and courts rarely heard from people affected by those who sell drugs in their neighborhood. In some jurisdictions, judges now receive information about how drug trafficking has affected the community's quality of life. Neighbors are given the opportunity to provide information anonymously, and their statements are incorporated into an overall impact statement for the case. Judges consult these statements when ordering convicted drug dealers to pay restitution to community groups in the neighborhood where the offense was committed. Community members are informed of their right to submit statements through public education and crime prevention programs as well as flyers distributed in neighborhoods following a drug arrest.[12]

A family violence council can accomplish a great deal through its operation. At the very least, if the principal persons in the legal system are present, communication and coordination should be improved within it.

Leonard P. Edwards,
Superior Court Judge,
Santa Clara County, California, in *Juvenile and Family Court Journal*, 1992

For certain kinds of crimes and victims, problem solving may be most effective in specialized courts. Current examples are drug courts, domestic violence courts, community courts that handle "quality of life" misdemeanor crimes, unified family courts that handle all problems relating to the family including criminal, civil, and juvenile matters, and courts designed specifically for child victims. The value of specialized courts for victims and offenders is that delivery of resources such as counseling, treatment, and job training can be coordinated in one location, allowing the judge to solve multiple problems in what traditionally were considered separate court jurisdictions.

- In New York City, the Midtown Community Court focuses on petty offenses such as prostitution, shoplifting, subway fare skipping, graffiti, minor drug possession, and illegal peddling that victimize the community. In sentencing defendants who plead guilty in these cases, the court and community organizations work together to make justice constructive for offenders as well as restorative to the community. Offenders pay restitution to the community through community service, but they also receive help for their problems through substance abuse treatment, health care, education, and other social services. The court is developing a process to help facilitate statements from community members on the impact of these crimes.

- In August 1995, following the enactment of state legislation establishing family violence cases as a priority for the criminal justice system, 11 county criminal court judges in Dallas County, Texas, created the first unified family violence court in the state. The court docket is limited to cases involving family violence offenses, and the prosecuting attorney's office expanded its family violence division to prosecute these cases exclusively. Among the many benefits for victims has been a streamlined application process for protective orders. Because the family and criminal courts are now together, victims attend all proceedings at one court. Unifying the courts has also led to more efficient dispositions and an increase in the expertise of judges and court personnel on the complicated issue of family violence.[15]

- In Los Angeles County, the Edmund D. Edelman Children's Court was established in 1992 as the nation's first dependency court designed specifically to meet the needs of children going through the court process. The building's small courtrooms are less intimidating to children than traditional courtrooms. Each courtroom's semicircular counsel table is shaped like a smile, and there are specially designated play areas for children to help reduce stress and trauma. The court's public areas have special eating facilities, television sets tuned to the Disney Channel, and separate diaper changing areas, and a shelter area offers a secure space for children in out-of-home placement. Safe, friendly, and private play areas, family visiting rooms, exercise areas, and conference rooms for children to meet with their attorneys, social workers, or other care providers are also available. Special initiatives of the court include counseling services for children and their families, training and internship programs, and a child-parent art program. The court is supported by a public and private sector partnership, the Child Victims in Court Foundation, which has raised over $1 million since the court began operation.[14]

If court spaces are designed around children, then adults never forget why they are there.[15]

The rich American Indian traditions of this country's tribal justice systems provide strong models for judicial leadership. In tribal courts, the goal is to solve problems created by wrongful acts, which are seen as harming not only the victim, but the offender, the victim and offender's families, and the entire community as well. In the Navajo Nation, for example, justice is administered through a peacemaking system in addition to a western legal process. In this system, victims, offenders, and their families are brought together to solve all kinds of problems ranging from nonpayment of child support to theft. But such "judicially sanctioned" problem solving need not be limited to small or culturally homogeneous communities. Peacemaking techniques have been adopted in an Albuquerque family court where participants are often of different cultures and do not necessarily share the same values.

A number of Canadian courts use the concept of the Aboriginal sentencing circle in which the judge, prosecutor, defense attorney, victim, offender, community members, and service agencies all come together to determine remedies, sanctions, and treatment programs that are appropriate for the victim, offender, and community. Moreover, family group conferencing based on Maori tradition is used throughout the New Zealand juvenile justice system, and community reparation boards are used in Vermont to craft appropriate sentences.

All of these restorative justice mechanisms originated in very different cultures but share common goals: solving problems through a collaborative process that emphasizes addressing the harm done to the victim; holding the offender accountable for the harm done; and restoring community relationships by bringing the victim and offender back into community life. Significant strides have been made in laying a legislative framework that provides for greater and more meaningful victim participation in the criminal justice process. At the same time, judges are hampered by a lack of experience with and training in the legal rights and legitimate needs of victims. To overcome the concerns of judges about the full implementation of victims' rights and the victim's role in the judicial process, education and training are critical. Those jurisdictions that have begun to reexamine the basic way in which justice is administered by giving greater recognition to the role of the community and the victim in the criminal justice process should serve as models of how the competing concerns of those affected by criminal conduct can be justly met.

These new ways of doing business have been given many names—community justice, tribal courts, specialized courts, restorative justice—but at their heart they all share a commitment to problem-solving and partnership with community groups, non-profit and government service providers outside of the justice system. These new movements hold promise for victims.

John Feinblatt,
Midtown Community Court,
New York, New York

Recommendations from the Field for the Judiciary

These recommendations address the judiciary's role in implementing victims' rights laws, and apply equally to judges in civil and criminal courts. Judges in civil courts, particularly family courts, interact with numerous crime victims and are often the most important arbiters of justice for these victims. Indeed, throughout all judicial systems, judges, court administrators, and court personnel must implement the spirit as well as the letter of laws protecting victims' rights that have been enacted on the state and federal levels. Judges must enforce victims' rights in the day-to-day operations of the court, particularly by ensuring that victims have an opportunity for input prior to plea proceedings, during the trial, and at sentencing. While a lack of adequate funding is sometimes the problem, more often full implementation is prevented by the lack of judicial education in victims' rights and services, a narrow vision in the judiciary of the role of the justice system, and the failure of the system to make victims' rights a priority.

JUDICIARY RECOMMENDATION FROM THE FIELD #1

The voices and concerns of crime victims should be recognized and institutionalized within the justice system. Judges should advise victims of their rights as routinely as they advise defendants of their rights.

All jurisdictions have statutory provisions spelling out the rights of victims, and 29 states have underscored these rights with the passage of state victims' rights constitutional amendments. The judiciary has a major responsibility for ensuring that victims are acknowledged, informed, heard, and treated fairly and with dignity. The first step is to recognize that the interests and needs of prosecutors and victims are not always identical. It would be educational for all participants in the courtroom to hear judges acknowledge victims and inform them of their rights. Oral advisement and videotaped and written materials can be used to explain the justice system and the proper role of victims in it. Judges must also ensure that victims are aware of rights for which prosecutors and probation officers have implementation responsibility, such as notification of hearing dates, case disposition, victim impact statements, and offender release.

Every court's administrative staff should have a victim coordinator, even in jurisdictions in which the prosecutor or probation office operates a victim/witness program. Victims and their advocates, including court-appointed special advocates and guardians ad litem for children, should have a formal voice in the court planning process. Special attention should be given to ensuring that multicultural and multilingual individuals serve in the courts to enhance the court's responsiveness to and understanding of the needs of the various ethnic and language groups in the community.

> *I sit before you today as a parent of a murdered child. Unfortunately, I am only one of many. My associates and I have survived the most devastating chapter in any parent's life, the senseless loss of a child. The agony is not easily retold. In fact, you couldn't possibly fathom the sensation unless you have survived it.*
>
> Ralph H. Hubbard,
> Outreach Coordinator,
> Parents of Murdered Children
> of New York State,
> Public Forum on
> New Directions, 1995

JUDICIARY RECOMMENDATION FROM THE FIELD #2

Judges and all court personnel at all levels of the court system must receive initial and continuing education on the law concerning victims' rights, the impact of crime on victims and their families, and how the judiciary can implement the spirit as well as the letter of these rights. This education must include training on the special needs of some victim populations such as victims with disabilities and non-English speaking individuals.

The importance of educating judges and court personnel about the proper role of victims in the justice system cannot be overemphasized. Just as doctors need training in interacting appropriately with patients and their families, judges and court personnel need training in understanding the impact of crime on victims and their families and the role of the justice system in their grieving and healing process. Training can help judges and court personnel appreciate the potential of the justice system to exacerbate victims' emotional injuries by failing to accord them respect, provide them with information, or allow them to participate.

Judicial education about victims should articulate why victim participation is a difficult subject for the judiciary. There must be thoughtful dialogue about issues relating to impartiality and opportunities for judges to not only learn the law but also reexamine basic notions about how justice is administered in our society.

Education of the judiciary about victim participation must be reinforced with interaction with victims themselves. Judges and court personnel need to hear from victims and their families. They should be encouraged to think about the role of victims in the larger judicial process in addition to their role in each case. Open dialogue among judges about victim participation should be encouraged institutionally, and this discussion must also occur between judges and court personnel, other members of the criminal justice system, the bar, the public at large, and crime victims. Education about these issues should begin as soon as possible in a judge's career, preferably in law school, and continue throughout the judge's service. Education on crime victims' issues must be provided to civil court judges, particularly those in family or dependency courts, as these judges regularly interact with hundreds of crime victims.

A model curriculum should be developed for the judiciary that links information about the rights and needs of victims to standard programs about trial management, criminal procedure, juvenile justice, and family law. When judges learn, for example, about their discretion in excluding witnesses from the courtroom they should also learn about the importance to victims and their families of being present for hearings and trials. When judges learn about setting bail and issuing restraining orders, they should also be apprised of research indicating when domestic violence is most lethal. Programs about child victims and victims of family violence, sexual assault, and hate crimes are good vehicles to educate the judiciary about victim issues. Judges should assume responsibility for obtaining current information about victim-related laws and any subsequent amendment of those laws.

In addition to general training, judges assigned to criminal courts, and particularly to specialized courts such as domestic violence courts, should receive intensive training in the impact of such crimes on victims, the dynamics between victims and offenders, and issues when judging the credibility of victims such as child victims and victims of domestic violence and sexual assault. Interdisciplinary training is essential. To truly act as problem solvers, judges must be aware of medical, psychological, and child development issues. Innovative ways need to be explored to allow judges with expertise in these areas to share that expertise with their colleagues through mentoring, partnering of courts, and use of experts who ride the circuit. All training curriculums must address the needs of multicultural and multiethnic groups, and all training initiatives—not just that on multicultural issues—should use the skills of racially, ethnically, and culturally diverse trainers.

By their attitude and the attitude of their staff, judges can set examples in the treatment of witnesses and victims. We urge that our fellow judges exercise their leadership role in improving the treatment of victims and witnesses. Victims of crime should not be victims of the criminal justice system.

Statement of Recommended Judicial Practices adopted by the National Conference of the Judiciary on The Rights of Victims of Crime at the National Judicial College, Reno, Nevada, 1983

Court administrators must ensure that judges are provided ongoing, comprehensive training on victims issues, and that the specialized training described above is incorporated into training plans and budgets.

JUDICIARY RECOMMENDATION FROM THE FIELD #3

Judges should facilitate the rights of crime victims and their families to be present at court proceedings unless the defendant proves that their presence would interfere with the defendant's right to a fair trial.

Thirty-four states have given victims the right to attend either the defendant's trial specifically or the criminal proceedings generally.[16] Furthermore, nearly half of the states guarantee it in their constitutions. In most cases, this right is limited by the requirement that it apply only to proceedings in which the defendant is also present. In addition, the majority of the states that allow for the victim's right to attend the trial also give judges wide discretion in excluding a victim from the courtroom in order to preserve the defendant's right to a fair trial or based on the victim's dual status as a witness.

Practical considerations also prevent victims from attending legal proceedings. In high-profile or multiple-party cases, there are often not enough seats in the courtroom reserved for the victims and members of their immediate family. Judges must make a point of setting aside adequate space in their courtrooms for crime victims and make better use of technology to expand victims' access to proceedings. The power of technology to aid victims was shown recently when closed-circuit television allowed hundreds of victims and survivors of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City to observe the trial in Denver, Colorado, from an auditorium in Oklahoma City.

JUDICIARY RECOMMENDATION FROM THE FIELD #4

Judges should consider victim and community safety in any prerelease or postrelease decision. As part of any pretrial release order, including bail, bond, or personal recognizance, judges should include a "no-contact" provision stating that the accused or defendant shall not harass, intimidate, threaten, or commit physical violence against the victim or victim's family.

Judges should invite victim input, whenever possible, regarding the release of the accused. When bail is allowed, when appropriate it should be conditioned on the defendant's restricted access to victims or prosecution witnesses. If judges find probable cause that the defendant has harassed, intimidated, threatened, or committed physical violence against the victim or the victim's immediate family, judges should revoke the defendant's bond or personal recognizance and order that he or she be taken into custody.

JUDICIARY RECOMMENDATION FROM THE FIELD #5

Before imposing a sentence, judges should permit the victim, the victim's representative, or, when appropriate, representatives of the community to present a victim impact statement.

Today, all states, the District of Columbia, and the federal government have enacted victim impact statement laws to allow judges to weigh the financial, physical, and emotional impact of a crime on its victim in establishing appropriate sentencing for the defendant. The U.S. Supreme Court has upheld the constitutionality of victim impact statements at sentencing, even in the most difficult decisions, capital offenses. Victim impact statements are an important source of information for judges in ordering restitution to the victim. In addition to statements from individual victims, community impact statements have been used in drug-related crimes to provide the courts with information on the impact of the crime for those living in drug-ridden neighborhoods.

Judges should require the inclusion of victim impact statements, including community impact statements where appropriate, in all dispositional hearings, especially plea agreements and sentencing. Judges should allow for the submission of victim impact evidence both orally and in writing. Additionally, judges should allow victims to submit victim impact evidence via audiotape, videotape, or other electronic means, especially when the victim is a child, elderly, or disabled, or where travel to the court would be burdensome. To facilitate input from victims who face communication barriers, judges should make every attempt to locate foreign or sign language interpreters. Finally, judges should require prosecutors to describe on the record their efforts to contact and seek input from victims.

I personally feel that it is a miscarriage of justice to sentence a defendant who has been convicted of committing a crime against another person without first hearing from the victim and taking into account the effects the crime had on the victim's life.

Judge Reggie Walton,
The President's Task Force
on Victims of Crime, 1982

JUDICIARY RECOMMENDATION FROM THE FIELD #6

Judges should facilitate the input of crime victims into plea agreements and resulting sentences, and they should request that prosecuting attorneys demonstrate that reasonable efforts were made to confer with the victim.

Requiring offenders to acknowledge guilt and take responsibility for their actions is important to the victim's healing process and the offender's rehabilitation. It is significant for victims' healing that the judge acknowledge at the time of sentencing that victims have been injured, solicit specific information from victims on the crime's impact on their lives, and explain the terms of the offender's sentence.

Judges' decisions will be better informed if victims are given an opportunity to provide comments about the plea agreement. In general, judges should require that reasonable efforts be made to confer with the victim, notify the victim of the time and date of the plea hearing, and inform the victim of his or her right to be present and heard. Whenever possible, the court should be informed of the victim's opinion concerning plea agreements. With the vast majority of cases disposed of through plea agreements, the debate on victims rights needs to be refocused on this critical juncture of the criminal justice system.[17] Exceptions to this practice should only be made under extraordinary circumstances such as in cases involving many victims or confidential informants.

Victim input into the plea process is critical because the rapid growth in caseloads over the past two decades has forced courts to use more efficient means of concluding cases. Resolving criminal cases through plea agreements, which are quicker than formal trials, has become standard practice in courts today. In 1994, 64 percent of felony cases in state courts nationwide were disposed of through guilty pleas, while only 7 percent were disposed of by trial. The remaining cases were resolved by a decision by the prosecutor not to continue or by the court to drop all charges.[18]

With criminal caseloads expected to increase even more in the decade ahead, the pressure on the judiciary, prosecution, and defense to dispose of cases through plea agreements will likely also increase. The great irony for victims is that this is an area of the criminal justice process in which victims are given fewest opportunities for participation. Nationwide, victims are often not notified about plea negotiations nor asked to provide input into the plea agreement.

A number of state constitutional amendments and statutes mandate victim input into the plea bargaining process. Arizona law, for example, requires that the court not accept a plea agreement unless:

- The prosecuting attorney advises the court that before requesting the negotiated plea reasonable efforts were made to confer with the victim;
- Reasonable efforts are made to give the victim notice of the plea proceedings and to inform the victim that the victim has the right to be present and, if present, to be heard; and
- The prosecuting attorney advises the court that to the best of the prosecutor's knowledge notice requirements were complied with and the court was informed of the victim's position, if known, regarding the negotiated plea.[19]

For the benefit of both offenders and victims, consideration should be given to not accepting no contest pleas.

JUDICIARY RECOMMENDATION FROM THE FIELD #7

As leaders within the justice system, judges must ensure that victims' rights legislation is fully implemented.

Judges should work closely with the bar to encourage dialogue with lawyers and the community about the problems of victims within the justice system. Judges should foster education and an understanding that solving victims' problems does not mean denying rights to offenders. Being leaders within the community means that judges have a responsibility to hear the public's views about the criminal justice system, understand community needs, and encourage public involvement in the criminal justice system. The philosophy of community involvement underlying community courts should be incorporated into all courts.

The chief justice of each state should personally take responsibility for encouraging dialogue on these subjects. The implementation of victims' rights should be placed on the agendas of the Conference of Chief Justices and the Conference of State Court Administrators. The Model Code of Judicial Conduct and state codes of judicial conduct should be examined to ensure that judges are encouraged to treat victims fairly. The Conference of Chief Justices and the Conference of State Court Administrators should hold educational panels on victim issues at their annual meetings. Each chief justice should ensure that the judicial recommendations contained in this report are disseminated to every judicial officer within his or her state and that appropriate and continuing educational programs on victim issues are undertaken.

Victim issues are important for federal as well as state court judges. Victims of crime appear in federal courts in cases involving white collar crime, terrorist bombings, civil rights crimes, interstate child support and domestic violence offenses, and crimes committed in Indian Country, on military reservations, and in other federal enclaves. Victims also appear in civil cases involving civil rights, sexual harassment, and employment discrimination. Victim issues should be on the agenda of the Judicial Conference of the United States, the Federal Judicial Center, and the Administrative Office of the United States Courts. All judicial agencies should develop continuing training programs for judges and *all* court personnel on victims' rights and services.

The presiding judge in each court is particularly important as a leader and inspiration among his or her peers, a spokesperson for the justice system within the community, and a liaison and collaborator with other branches of government. Judges and courts should see themselves and be seen by the community as peacemakers and problem solvers. This message should be taken to law schools, the bar, and to the community at large. Special steps should be taken to ensure that this outreach involves all sectors of the community including culturally or linguistically distinct groups.

Victims and victim advocates should be informed of available recourse to judicial oversight groups such as judicial disciplinary committees should they believe a judge has denied a victim's rights in court. The California Commission on Judicial Performance has demonstrated the efficacy of this remedy and has twice brought public censure on judges who failed to honor crime victims' statutory rights. Disciplinary committee members should receive ongoing training in victims' issues and in substantive victims' rights.

JUDICIARY RECOMMENDATION FROM THE FIELD #8

Judges should play a leadership role in ensuring that police, prosecutors, defense counsel, judges, and court administrators receive joint training so that all have a comprehensive picture of what happens to a victim as he or she navigates through the criminal justice system.

Judges should give special consideration to how defense attorneys and the bar at large can best be educated about crime victims and how courts can be reoriented to be problem solvers for both offenders and victims. Appropriate postadjudication victim-offender mediation programs should be encouraged, but only with adequate safeguards for the physical and emotional well-being of victims and their families, and only if requested by the victims. The defense bar and public defenders as well as prosecutors should be fully involved in the planning and implementation of specialized courts. Multicultural issues should be incorporated into all trainings.

JUDICIARY RECOMMENDATION FROM THE FIELD #9

Judges have a responsibility to manage their cases and calendars to make victim involvement as feasible as possible. Modern technology should be used to give victims greater access to the justice system and should include multilingual services at no cost to victims.

Many victim reforms such as reducing delay, allowing input into the process at points other than sentencing, and controlling the examination of witnesses are dependent on active case and courtroom management by the judge. The need for "efficiency" should not be used as an excuse not to inform and involve victims. Victim involvement does require time, but a properly managed court and calendar can accommodate reasonable victim participation. Judges set expectations for attorneys and other participants in the justice system. The local legal culture will respect and comply with victim involvement if it is expected and validated by the judiciary.

With appropriate safeguards for statutorily required confidentiality, modern technology should be used to bring more information about crime victims and offenders in particular cases to judges. Technology should be used to link all agencies within the criminal justice system to ensure that court orders issued to the same family do not conflict. Teleconferencing and closed-circuit television should be used to minimize inconvenience and trauma to victims. Information kiosks, educational videos, and other educational tools should be used to educate victims about the justice system and the process and procedure they should expect. Judges should coordinate with other criminal justice agencies in the development of a centralized case tracking system that will provide victims with notice at every stage of the criminal justice process.

The availability of interpreters and accessibility to the justice system are important issues for the public, and for victims and their families in particular. Judges should never assume that disabled crime victims and their family members would prefer not to or cannot attend court proceedings. Courts should provide victims with interpreters for all proceedings whenever needed and possible, and at least one courtroom in each courthouse should have the capability for real-time transcription for hearing-impaired victims.

Victims' rights laws affect even America's northernmost court. The trial court in Barrow, Alaska, serves a community of 4,000 and an area half the size of California. With the vast distances involved in some of these cases, we can use technology to serve victims even in the most remote locations.

Superior Court Judge
Michael I. Jeffery,
Alaska Court System,
Barrow, Alaska

JUDICIARY RECOMMENDATION FROM THE FIELD #10

Judges should order restitution from offenders to help compensate victims for the harm they have suffered. If extraordinary and compelling reasons make restitution impractical or inappropriate, judges should explain in writing and on the record why they did not order it.

Judges should order restitution regardless of whether the defendant was adjudicated through a plea agreement or trial, and regardless of whether the offender is incarcerated or placed on probation. Courts should make every attempt to ensure the enforcement of restitution orders. Judges should also explain to crime victims the purpose of ordering restitution as part of a sentence, how it is collected and disbursed, and the avenues available to hold offenders accountable for payment. Victims should be advised not to have unrealistic expectations about receiving restitution payments from indigent offenders.

In addition, judges should ensure that restitution orders become automatic liens against the defendant by ordering restitution as a civil judgment where permitted by law. The judgment can then be enforced by the government or by the victim or the victim's beneficiary in the same manner as a civil action. In cases in which more than one defendant is convicted of the criminal offense, the defendants should be held jointly and severally liable for the judgment. There is a growing trend to enforce restitution orders as civil liens. Currently, a majority of states have laws that permit the courts to enforce restitution orders as civil judgments, either at the time of the order or at the end of an offender's probationary period. In some states, the laws also allow the authorities to seize an offender's property and financial assets through the use of garnishment or attachment orders when the offender has failed to satisfy the court's order.[20]

JUDICIARY RECOMMENDATION FROM THE FIELD #11

Judges should play a leadership role in ensuring that separate and secure waiting areas are available in all courthouses for prosecution and defense witnesses to minimize the contact of victims with defendants, their relatives, and friends before, during, and immediately after court proceedings.

The 1982 President's Task Force recommended that judges or their court administrators establish separate waiting rooms for prosecution and defense witnesses to reduce victim intimidation.[21] However, the practical reality of too many overcrowded courthouses across the country has prevented the full implementation of this important recommendation. As new courthouses are designed, the safety of victims must be taken into consideration.

JUDICIARY RECOMMENDATION FROM THE FIELD #12

Codes of Judicial Conduct should be amended to reflect the fact that crime victims play a pivotal role in the criminal justice system.

Judges throughout this country are guided by their respective Codes of Judicial Conduct. These codes are not intended to be exhaustive guides for the conduct of judges. They are intended instead as guidelines to assist judges in establishing and maintaining the highest standards of judicial conduct. The Code of Conduct for United States Judges applies to all federal judges and serves as a model for state Codes of Judicial Conduct.

The following specific recommendations, highlighted in bold, are offered as amendments to the Code of Conduct for United States Judges:[22]

Canon 3(A)(3)[25] should be amended to provide that:

> A judge shall be patient, dignified and courteous to litigants, jurors, **victims of crime,** witnesses, lawyers and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.

Canon 3(A)(4)[26] should be amended to provide that:

> A judge shall accord to every person who has a legal interest in a proceeding, including **victims of crime,** or that person's lawyer, the right to be heard according to law.

Other jurisdictions should modify their respective codes of conduct accordingly.

JUDICIARY RECOMMENDATION FROM THE FIELD #13

Judicial assignments to specialized courts or family law or juvenile courts should be based on experience and interest, not on lack of seniority or punishment.

There is a perception among some members of the judiciary that the work of family or juvenile courts is of less distinction or merit than that of other courts. As a result, assignments or appointments to these courts typically do carry the same stature in judicial circles and are less well paid. Judges in other courts may have little understanding of the nature and complexity of the issues involved in juvenile or family court cases, limiting their ability to recognize and address these issues when they arise in their own court.

To the extent that there is a goal of exposing all judges to all assignments, adequate education and mentoring should accompany rotational assignments. Rotations should be long enough to allow the new judge to become thoroughly familiar with the assignment and the law. Judicial salaries should be equalized. In particular, lower salaries should not be paid to judges sitting in juvenile or family law courts.

JUDICIARY RECOMMENDATION FROM THE FIELD #14

Judges must take a leadership role in conceptualizing and advocating that the justice system encompass not only traditional adjudication and punishment

but also holistic problem solving and treatment for victims as well as offenders. Principles of restorative community justice and therapeutic jurisprudence should be incorporated into court systems with due regard for differing cultures and ethnic groups.

Courts must reexamine the ways in which they do business and consider innovative means of achieving justice through the involvement of the community and victims. A reorientation toward problem solving, as opposed to only adjudication, requires a much broader allocation of jurisdiction among judges. In family violence cases, for example, such a reorientation may require a single court to exercise criminal, civil, as well as juvenile jurisdiction to address all of a family's problems. This expanded jurisdiction gives the court the authority to hold the batterer accountable through treatment as well as punishment and protect and treat both adult and child victims of violence.

Reorienting courts toward problem solving expands the system's definition of victim in the context of a particular set of issues. Again using family court as a model, victims would now include children who witness violence in their family as well as those who are themselves battered and sexually assaulted. Moreover, judicial problem solving expands our definition of restitution. The new objective is to help the victim achieve healing as well as to hold the offender accountable. In addition to full monetary restitution, courts must make counseling, social services, drug and alcohol treatment, and job training available, when appropriate, to victims and offenders.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

One of the important, if not the most important aspects of justice is healing victims, healing wounded people. One thinks of justice in the context of deterrants, of retribution. But too infrequently is justice looked at as a form of healing, a form of therapy for victims who cannot really begin their healing process until there has been some public acknowlegement of what has befallen them.

Justice Richard J. Goldstone, Constitutional Court, South Africa, and former Chief Prosecutor, International Criminal Tribunals for the former Yugoslavia and Rwanda; speech given at the United States Holocaust Museum, January 27, 1997

The Judicial System Today

State courts serve as the primary institution for adjudicating criminal and civil disputes in the United States. There are 16,400 state trial courts operating in the 50 states, District of Columbia, and Puerto Rico.[25] Of these courts, 13,874 are limited jurisdiction courts and 2,513 are general jurisdiction courts. In 1994, 27,194 trial judges served in state courts.[26]

In the federal judicial system, 94 district courts and 12 regional courts of appeals adjudicate approximately 310,000 criminal and civil cases each year.[27] Approximately 1,991 judges comprise the federal judiciary[28] and there are approximately 325 tribal courts in the nation's tribal justice system.[29]

Pressures on the Court System

One of the greatest challenges facing the nation's judiciary over the past decade has been the huge growth in the number of serious cases before the courts.[30]

- In 1995, 86 million new cases were filed in state courts, including approximately 20 million civil and domestic relations cases, 13 million criminal cases, 2 million juvenile cases; and 51 million traffic and ordinance violations.

- Between 1984 and 1995, criminal caseloads rose 38 percent, juvenile caseloads rose 55 percent, and domestic relations caseloads rose 70 percent. In contrast, the U.S. population increased roughly 10 percent over the same period.

- Felony filings in general jurisdiction courts increased 70 percent between 1984 and 1994.

- Total criminal case filings in the United States reached an all-time high in 1995 of more than 13 million cases—a 38 percent increase since 1984.

- The most rapid growth in domestic relations cases occurred in the area of domestic violence, with filings in 1995 increasing over 99 percent since 1989.

- On the federal level, U.S. District Courts faced a significant increase of criminal cases filings from 1980 to 1994, rising from 27,968 to 45,774.[31]

Endnotes

1 President's Task Force on Victims of Crime, *Final Report*, Washington, D.C.: U.S. Government Printing Office, December 1982:72.

2 National Victim Center, *1996 Victims' Rights Sourcebook: A Compilation and Comparison of Victims Rights Laws*, Arlington, VA: National Victim Center, 1997: §9.

3 National Conference of the Judiciary on the Rights of Victims of Crime, *Statement of Recommended Judicial Practices*, Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 1985.

4 Attorney General's Task Force on Family Violence, *Final Report*, Washington, D.C.: September 1984: 33-34.

5 The *Judicial Focus Group on Victims' Issues*, which met in Washington D.C. on January 27-28, 1997, consisted of prominent members of the judiciary and judicial administrators. They included the Honorable Mary C. Morgan (ret.), the Honorable Richard Andrias, the Honorable A. Franklin Burgess, Jr., John Feinblatt Esq., the Honorable Lois Haight, the Honorable Suzanne W. Knauf, the Honorable Cindy Lederman, the Honorable Rosalyn Richter, Lynn Hecht Schafran Esq., the Honorable Bill Schma, the Honorable Bill Thorne, and the Honorable Irene Toledo.

6 Office for Victims of Crime, *Report from the Judicial Focus Group on Victims' Issues*, Washington, D.C.: 1997.

7 *Id.*

8 *Id.* at 4. Judges report that they often feel caught in the crossfire among prosecutors who resent interference in their cases, victim advocates who perceive judges as having more power and discretion than they do, and defense counsel who often paint victims as persons interested only in revenge.

9 Edwards, Hon. Leonard P., "Reducing Family Violence: The Role of the Family Violence Council," *Juvenile and Family Court Journal*, 2,1992:43.

10 Violence Against Women Act, Tit. IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322 (September 13, 1994), codified at 42 U.S.C. 13701.

11 Abrahamson, Hon. Shirley S., *A True Partnership for Justice*, JUDICATURE, Vol. 80, No.6 (1996).

12 American Prosecutors Research Institute, *Community Prosecution: A Guide for Prosecutors*, Washington, D.C.: 1995: 32 (National District Attorneys Association prepared under agreement with the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, 1995). This unique concept for victim participation was first initiated by the Milwaukee District Attorney's Office, and is now routinely used by the U.S. Attorney's Office for the Eastern District of Wisconsin.

13 Bush, G.W. and K. J. Greene, *The Governor's Criminal Justice Plan for Texas: Protecting Our Future*, Austin, Texas: Criminal Justice Division, Office of the Governor, fiscal year 1998:58.

14 The Edmund D. Edelman Children's Court, *The Children's Court Design Committee Report*, Los Angeles, California: Juvenile Court Administrative Office, 1995.

15 *Id.*

16 National Victim Center, *1996 Victims' Rights Sourcebook*, 257.

17 Ostrom, B. J. and N. B. Kauder, *Examining the Work of State Courts, 1994: A National Perspective from the Court Statistics Project*, Williamsburg, VA: National Center for State Courts, 1996:66.

18 *Id.*

19 ARIZ. REV. STAT. § 13-4423 (1996).

20 National Victim Center, *1996 Victims' Rights Sourcebook*, 275-276.

21 President's Task Force on Victims of Crime, *Final Report*, 72.

22 *Code of Conduct for United States Judges, Guide to Judiciary Policies and Procedures*, Washington, D.C: Judicial Conference of the United States, 1997: vol ii, ch.1.

23 *Id.* at 5.

24 *Id.* at 6.

25 Ostrom, *Examining the Work of State Courts*, 1994, 17, 14.

26 *Id.* at 14.

27 Administrative Office of the U.S. Courts, *Statistical Report for the Justices and Judges of the United States*, Washington, D.C.: April, 1997:1.

28 *Id.*

29 Telephone interview between Cathy Sanders (OVC) and the National American Indian Court Judges Association (April 24, 1997).

30 Ostrom, *Examining the Work of State Courts*, 1994, 8-9.

31 Committee on Long Range Planning, *Proposed Long Range Plan for the Federal Courts*, Washington, D.C.: Judicial Conference of the United States, November 1994:11.

CHAPTER 5

Corrections

The field of corrections addressed in this section includes the adult and juvenile justice agencies responsible for the incarceration, detention, supervision, and surveillance of those accused or convicted of committing crimes. The corrections system encompasses institutional corrections—our nation's prison system—and facilities such as jails that temporarily confine those accused or convicted of crime. Community corrections includes probation, an alternative sentence to jail or prison/detention, as well as paroling authorities which have responsibility for hearings on releasing offenders from incarceration or detention and supervision following release.

There is no standard organizational model defining the relationships between correctional agencies on the state or federal level. In some states, the institutional correctional agency not only manages the prisons but has responsibility for parole release decisions and parolee supervision. In other states, the paroling authority is separate from the state's institutional correctional agency. For purposes of this section, ***institutional corrections*** refers to prisons and jails, and ***community corrections*** refers to probation and parole.

In recent years, America's correctional population has grown 7 to 8 percent annually and is now triple the 1980 population, with approximately 3.8 million individuals under some form of correctional supervision.[1] Of the total correctional population, about 75 percent is under supervision within the community.[2] Of those incarcerated, about two-thirds are in federal and state prisons, and one-third are in local jails.[3]

The *Final Report* of the President's Task Force did not include recommendations for institutional corrections or probation, and made only four recommendations for parole.[4] The Task Force urged parole boards to:

- Notify victims of crime and their families in advance of parole hearings, if names and addresses have been previously provided by these individuals.
- Allow victims of crime, their families, or their representatives to attend parole hearings and make known the effect of the offender's crime on them.

> *We have had a tendency in corrections really not to give a priority level to victims of crime. For so long, it was secondary to other considerations. In more recent years, we have realized that victims should be at the top of our agendas and part of all of the efforts we are involved in.*
>
> Morris Thigpen,
> Director, National
> Institute of Corrections

- Take whatever steps are necessary to ensure that parolees charged with a crime while on parole are immediately returned to custody and kept there until the case is adjudicated.

- Not apply the exclusionary rule to parole revocation hearings.

The narrow scope of the Task Force recommendations was largely a reflection of the times. In the early 1980s, victims' rights and services in corrections were virtually nonexistent. Reforms to increase victim participation largely addressed the front end of the criminal justice system, affecting the roles and responsibilities of law enforcement, prosecution, and the judiciary. With the exception of enacting rights for victims to submit victim impact statements at parole hearings, victims' rights and services within adult and juvenile corrections were largely ignored.

We have been in denial in essence about the role of the victims in corrections itself. Corrections has probably been the last major entity in the criminal justice system to really get involved with victims issues. So as President, I really want the American Correctional Association to embrace the notion of victims' issues, victims' rights, and the role of victim survivors.

Reginald A. Wilkinson, Director, Ohio Department of Rehabilitation and Correction, President, American Correctional Association

The Role of Victims in Institutional and Community Corrections

Over the past decade, the basic philosophy of correctional agencies has undergone radical change. Traditionally, correctional agencies viewed their role as limited to punishing and attempting to rehabilitate offenders. Today, serving crime victims is also widely accepted as an important part of the mission of correctional agencies. This new role is reflected in their governing laws and internal policies and procedures, as well as in the attitudes of correctional personnel.

Legislative reforms mandating that correctional agencies provide specific services to victims of crime have substantially increased the scope of victims' rights and services in corrections. As a result, many correctional agencies have gained an understanding of crime victims' needs and developed policies and procedures sensitive to those needs. These agencies now interpret their responsibility to "protect the public" as including individual crime victims.

Prisons

The increasing number of offenders in the nation's correctional systems since 1982, when the President's Task Force *Final Report* was issued, has had an enormous impact on institutional corrections. In 1982, there were a little more than 400,000 inmates in federal and state prisons in the United States.[7] By 1996, this number had quadrupled to 1.6 million.[8]

Increasingly, correctional institutions are realizing that victims are important clients. Two significant steps toward this goal were the incorporation of service to crime victims in mission statements and the creation of victim advisory boards, both of which help guide the overall operation of correctional agencies. Correctional agencies now provide a

Chronology of Corrections' Response to Crime Victims

It is noteworthy that the many accomplishments in the area of corrections-based victim services have been achieved through strong leadership emerging from national corrections associations. The partnerships they have forged with victim service organizations have been critical to promoting an agenda for victims' rights and services throughout the nation's correctional system.

A new sensitivity to crime victims emerged in the mid-1980s with the following events:

- In 1986, the American Correctional Association published a landmark policy statement pronouncing that victims have the right to be treated with dignity and respect and the right to notification of their offenders' status.
- In 1987, the American Correctional Association established a victims' task force which published 15 recommendations to improve correctional-based victims' services.[5] These recommendations provided a comprehensive national foundation for victims' rights and services in corrections.
- From 1990 to 1994, the Office for Victims of Crime supported the first national crime victims and corrections training and technical assistance project. Subsequently, more than 40 states, as well as the federal and military corrections systems, have received training, technical assistance, and support in developing policies and procedures to initiate and enhance corrections-based victim services.
- In 1990, the first national conference on corrections-based victim services, sponsored by the Office for Victims of Crime, was held in Sacramento, California, with 150 participants from 40 states.
- In 1991, both the American Probation and Parole Association and the Association of Paroling Authorities, International, established victim issues committees.
- In 1995, the American Correctional Association Victims Committee issued the landmark *Report and Recommendations on Victims of Juvenile Offenders,* recommending that the rights of victims of juvenile offenders mirror those of adult offenders.[6]
- In 1995, the Office for Victims of Crime initiated four projects as a continuation of the work started in 1990: two grants to fund promising practices in victim services in corrections and jails and in probation and parole, and two training-for-trainers projects on work-related violence and victim services in corrections.
- In 1996, the Association of State Correctional Administrators formed a victims committee that works closely with the Office for Victims of Crime to integrate victim service programs into correctional agencies and work sites across the country.
- In 1997, the Federal Bureau of Prisons formed a Crime Victims Working Group to develop a long-range plan on how the Bureau can better address victims' needs.

variety of services to victims including victim notification of offender status, restitution collection, protection from intimidation and physical harm, and innovative victim impact programs to help educate offenders about the impact of the crimes they have committed.[9] These creative programs and services are discussed in detail later in this section.

Jails

In the United States, jails typically hold men and women who are awaiting trial or serving sentences of one year or less. In 1996, local jail authorities held or supervised an estimated 591,459 men and women, of whom 12 percent (72,977) were supervised through such programs as community service, work release, weekend reporting, electronic monitoring, and other alternatives to incarceration.[10]

With more jails being used as longer term incarceration facilities for convicted offenders, it is paramount that jails also provide basic services for crime victims such as notification of changes in offender status and collection of court-ordered restitution. Jail personnel also have a responsibility to protect the safety of victims by notifying them of the pending release of an alleged or convicted offender. When victims or witnesses complain to jails about harassment or retaliation by alleged or convicted offenders under their supervision, jail personnel must respond immediately.

A 1996 survey of jails in mega, large, and medium jurisdictions nationwide found, however, that implementation of basic victims' services, while improving, is still far from an acceptable level. Of the jails responding to the survey, less than 50 percent have specifically assigned a staff member to handle inquiries from crime victims or witnesses and to provide information to them. In addition, 30 percent of jails do not notify victims and witnesses about the status of offenders or of an offender's scheduled release from incarceration, and 50 percent do not notify victims and witnesses of an offender's early release or escape.[11]

The number of probation and parole professionals that need to place crime victims on a 'more even playing field' with offenders is increasing—after all, it is the 'right and just thing to do.' Albeit it not always the easiest thing to do. The victims rights movement continues to be a powerful force, and community corrections must rise to the challenge being presented or risk losing their credibility with the public as well as risk losing much needed resources.

American Probation and Parole Association, *Promising Victim-Related Practices for Probation and Parole*, February 14, 1997

Community Corrections

The underlying philosophy of community corrections is also changing significantly. Providing rights and services for crime victims at this critical juncture of the criminal and juvenile justice processes is taking on increasing importance because probation is now the most widely used correctional tool, and its use is increasing at a faster rate than any other form of corrections.[12] In 1994, of the estimated 3.8 million individuals under some form of corrections in the United States, 75 percent were under community corrections. Of those under community corrections, 60 percent were on probation and 15 percent were on parole.[13] Moreover, as the rate of incarceration in our nation's prisons dramatically increases, community corrections increasingly is used as a spillway for prisons.[14]

Not only has the use of probation expanded, but the type of offender currently sentenced to probation is starkly different from the probationer of 30 years ago. Today, the supervised population tends to be more violent, substance abusing, and transient. Professionals in the field of community corrections face tremendous challenges in working with these offenders, who can pose an increasing threat to their victims and to the community at large.

Victims' rights in the parole process have improved substantially in the past decade. As of 1995, 43 states have enacted laws allowing victims to give input at parole hearings through victim impact statements; 29 states provide, upon request, victim notification of offender release; 28 states allow crime victims to attend and testify at parole hearings; and 10 states have "opened" their parole board hearings to the general public.[15]

Today, 38 percent of paroling authorities have a staff member designated to accompany victims, witnesses, and their families to any hearings related to the offender's release.[16] To reduce potential intimidation and confrontation between victims and offenders at parole hearings, 75 percent of paroling authorities have taken some type of action such as separating victims and offenders by one-way glass or offering victims the opportunity to meet with the parole board separately.[17] However, less than half of parole agencies provide waiting areas for victims that are separated by sight and sound from the inmate or inmate's family.[18] Regarding victim notification of the outcome of parole hearings, there has been significant progress. A recent survey found that 88 percent of paroling authorities now inform victims of hearing outcomes by letter.[19]

> *I also feel that I should be allowed at the parole hearings or be allowed to send a representative. I think it would be very difficult for me to attend them, but I feel that it should be my right to have the option.*
>
> A victim, *Final Report* of the President's Task Force on Victims of Crime, 1982

How Correctional Agencies Are Responding to Crime Victims

Increasingly, correctional agencies are recognizing that victims are important clients who need vital services. Correctional agencies are now more committed to protecting victims from intimidation and harassment, notifying them of offenders' status and scheduled release, providing avenues for victim input into release decisions, and collecting restitution.

Correctional agencies are also recognizing the important role that victims can play in helping them develop policies, procedures, and programs that benefit victims as well as correctional staff and offenders. Across the nation, crime victims are being asked to join advisory committees and agency boards, become official members of parole commissions, and serve as teachers in innovative classes that sensitize offenders to the human impact of their offenses.

Correctional agencies are also beginning to acknowledge the needs of victims in their mission statements. In 1996, only 40 percent of adult institutional corrections, 51 percent of juvenile institutional corrections, and 66 percent of paroling authorities included service to crime victims as an important part of their mission.[20] In Oregon, the state's board of parole has adopted the following mission statement:

> The Board's mission is to work in partnership with the Department of Corrections and local supervisory authorities to protect the public and reduce the risk of repeat criminal behavior through incarceration and community supervision decisions based on applicable laws, victims' interests, public safety, and recognized principles of offender behavioral change.

A mission statement addressing victims has also been adopted by the Maine Department of Corrections:

> Restorative justice challenges us to design and administer a system that places the needs of the victims and the harm done by the offending behavior at the center of the process by which we sanction and hold the offender accountable; and, prevention is our moral obligation. We will promote, support, and facilitate prevention activities by working with families and communities to address these factors which put children at risk, and to protect children from those risks.

A number of years ago we decided that victims' rights and the need to meet victims' needs would be a part of our mission.

Elaine Little,
Director, North Dakota Department of Corrections
and Rehabilitation

Crime victims can help ensure that victim safety and services are priorities for correctional agencies by serving on victim advisory committees or boards. The Virginia Parole Board is one of a number of parole boards across the country that have invited victims to be members. According to the Director of Virginia's Department of Corrections, "by having victims on the board we have individuals that can talk to other parole board members about what the impact of the crime was on the victim and the consequences on the victim of their decision."[21]

Victim Notification

Victim notification of the release of alleged or convicted offenders is a critical service for victims. Without notification, they are denied the ability to take precautions for their safety. The importance of providing offender release information to crime victims has long been recognized. In 1982, it was one of the primary recommendations of the President's Task Force on Victims of Crime for parole. In the *Final Report,* the Task Force recommended that parole boards notify victims and their families in advance of parole hearings if victims provide the paroling authority with their name and address. In addition, the Task Force called on parole boards to allow victims of crime, their families, or their representatives to attend parole hearings and to provide information about the impact of the crime.

According to the 1996 *National Victim Services Survey of Adult and Juvenile Correctional Agencies and Paroling Authorities,* a five-year update of the nation's first survey of correctional-based victims' rights and services, marked improvements have occurred in this area.[22] The survey found that from 1991 to 1996, the percentage of adult correctional agencies notifying victims of changes in offender status increased from 66 to 78 percent; the percentage of juvenile correctional agencies notifying victims of changes in juvenile offenders status increased from 18 to 55 percent; and the percentage of paroling authorities notifying victims of changes in offender status increased from 70 to 80 percent.[23]

There is, however, no consistent notification on a state-by-state basis or at the federal level. Some correctional agencies notify victims of only certain types of inmate releases. Others notify victims of changes in classification of offenders. Some notify victims of an inmate's escape, while others notify victims of an inmate's clemency or death. On the federal level, the Federal Bureau of Prisons has created one of the nation's first comprehensive victim notification programs, which has served as a model to the states for the past decade.

Innovative technologies have emerged in recent years that augment victims' access to both notification and information. At least 10 state correctional agencies utilize automated voice response notification systems that place telephone calls to victims, upon request, and inform them of offenders' pending release or release hearings. Victims can also contact a centralized call center 24 hours a day, 7 days a week. Live operators at the center confirm offender status updates and referrals to community-based victim services. Many state correctional agencies are following the example of the Illinois Department of Corrections, which incorporates current updates on inmates' status, location and relevant upcoming hearings that are available to victims and the general public via the Internet.

In most jurisdictions, victims need to be told about their right to certain types of notification because state and federal laws require that crime victims must *request* that they be notified. Too many victims of crime do not request notification simply because they have not been informed that they have a right to do so.

Victim and Witness Protection

Every day in the United States, victims and witnesses are harassed, intimidated, and retaliated against by incarcerated offenders. Many correctional agencies have responded creatively to this problem. Today, 37 states revoke an offending inmate's privileges, 36 transfer the inmate to a more restrictive level, 28 allow the filing of a new criminal charge, and 21 allow enhancement of the inmate's sentence. In addition, 40 state correctional agencies document such harassment and threats in the offender's case file, 35 recommend investigation for additional prosecution, and 31 recommend revocation of parole when a parolee harasses, intimidates, or retaliates against a victim.[24] In California, the state is using an innovative method to stop the increasing number of instances in which inmates use telephones or letters to threaten and harass victims. The California Department of Corrections has created a program to block victims' phone numbers from inmate access and check inmates' outgoing mail.

In managing offenders who are ordered by the court to community supervision or released early from prison with supervision, probation and parole officers need to ensure the safety of victims and the public. Officers should use surveillance to identify offenders who pose a continued threat and improve monitoring efforts such as checking with contacts at the offender's home, employment, and neighbors to ensure that they are meeting the conditions of their probation or parole.

Just as there are special units in law enforcement and prosecutors offices, probation and parole departments have begun to establish special units, such as sex offender and domestic violence units, to provide intensive probation or parole to reduce the safety risks to victims and society as a whole. Agents in these units carry smaller case loads and have received specialized training in intensive supervision of the type of offenders assigned to the unit.

Correctional agencies are also using intermediate sanctions to heighten victim safety. Such sanctions include electronic monitoring, house arrest, random alcohol and other drug testing, parole to a location other than the victim's community, mandatory restitution, and increased surveillance.

Community Notification

By mid-1997, most states had passed laws that either provided for notice to communities of released sexual offenders, or authorized the general public or certain individuals or organizations to access the sexual offender registry. Often referred to as "Megan's laws" in memory of 7-year-old Megan Kanka, who was murdered by a twice-convicted sex offender paroled to her neighborhood, community notification laws recognize that a community has a compelling interest in being informed of offenders' whereabouts. At the federal level, in 1996 Megan's Law amended the community notification provisions of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act to require states to release relevant registration information when necessary to protect the public.[25]

To be truly effective, community notification laws require significant coordination among law enforcement officials, courts, correctional agencies, victim service providers, the news media, and other key stakeholders. Correctional agencies play a major role in providing this service by determining when and to where sex offenders will be paroled conducting community outreach and public education projects.

A promising practice in planning and implementing community notification programs emerged in 1990 in the state of Washington. This truly collaborative approach takes into consideration the rights and interests of victims, the community, and offenders. The strategy incorporates the following elements: establishing requirements for registration, requiring registration information for offenders, implementing guidelines for failure to register, implementing guidelines for a preliminary offender risk assessment, compiling an "end of review" information packet for each offender for distribution to the prosecutor in the county where the offender plans to reside; distributing special bulletins to law enforcement, developing notification policies based upon three levels of offenders (low, moderate, and high risk), creating guidelines for who should have access to sex offender registry information, and conducting community outreach efforts including community meetings and public education resources that involve victims and address their rights and needs.

In addition, the automated voice notification technology described earlier in this chapter has been modified by the Wisconsin Department of Corrections to provide both automated registration for convicted sex offenders and notification to designated parties.

I think that a victim impact statement balances the scales of justice. For once the victim has a victim advocate . . . his own words.

A victim,
Impact Statements:
A Victim's Right to Speak,
a Nation's Responsibility
to Listen

Victim Impact Statements

Today, victims provide input about the impact of crime at parole (and sometimes parole violation) hearings in person, via audiotape or videotape, by teleconferencing, or in writing. Their statements give the paroling authority crucial information about crime's financial, physical, and emotional impact. Victim input into the parole process is one of the few areas of victims' rights in which most states have enacted legislation. In the past two decades, the passage of laws requiring victim input at parole has been one of the greatest advances in victims' rights, with 43 states now providing this right.[26] To make this right meaningful, however, paroling authorities must notify victims of crime and their families of hearings in advance and schedule time during the hearing to allow them to describe the crime's impact on their lives as required by law in 45 states.[27]

New state laws requiring victim notification and input into the decisions of parole boards have helped to ensure that victims have a meaningful voice in these decisions.

> Patricia Pollard was kidnaped, beaten, and raped in 1974. Her attacker, Eric Mageary, was sentenced by the state of Arizona to 25 years to life, but was paroled in 1989 without the required notice to Ms. Pollard. He was later reincarcerated for a parole violation. In 1990, Arizona passed a state constitutional victims' bill of rights, along with implementing legislation, which guaranteed victims the right to notice of and to be heard at hearings, including parole hearings. State law also provided a remedy if a victim's rights were ignored. In 1993, again without required notice to Ms. Pollard, Mageary was granted release to home arrest. Her right to notification having been violated, Ms. Pollard exercised the remedies allowed her under state law, and a rehearing was ordered. After Ms. Pollard testified, the board reversed its decision and denied Mageary's release.[28]

In Wisconsin, the chairman of the state parole board personally visits with victims in their homes to obtain victim impact information, bringing a personal touch to what is often an intimidating process.

Restitution

Restitution is an important part of an offender's sentence. It increases accountability by holding the offender financially responsible for the crime, and it compensates the victim for at least a portion of the costs caused by the offender's actions. Correctional agencies play a pivotal role in ensuring that offenders are held accountable to their victims through the collection of restitution. Today, 43 correctional agencies and the Federal Bureau of Prisons have the authority to collect restitution from offenders sentenced to prison terms.[29] The Federal Bureau of Prisons created an effective restitution collection program in the late 1980s, and just over half of state correctional agencies have used this model to develop similar programs.

The reluctance of offenders to pay restitution has led states to be creative in monitoring and collecting restitution. Sources of restitution payments now include inmates' work wages, trust accounts, state and federal income tax returns, lottery winnings, and inheritances. In California, the state department of corrections has statutory authority to attach all deposits in inmate trust accounts and take up to 50 percent for direct victim restitution and court-imposed fines. Today, 50 percent of working inmates in the state are paying restitution.[30] Furthermore, some states allow bail payments to be automatically applied to fulfill restitution orders. (For a more indepth discussion of restitution, see Chapter 15 of this report.)

Violations of Conditions of Supervision

In 22 states, victims are allowed to give input prior to or during parole violation hearings.[51] However, when a parolee is charged with violating the conditions of supervision, only six states routinely notify victims of the violation and the impending revocation hearing.[52] In 14 states, victims of the original offense for which the offender was on parole are notified of subsequent parole violations.[53] In 23 states, victims of a new offense resulting in a parole violation are notified of the fact that the offender was a parolee and the crime was a violation of the conditions of parole.[54] Any victim who so requests should be notified of violations of conditions of supervision and provided the opportunity to provide input prior to or at any relevant hearings.

Classes for Offenders on the Impact of Crime on Victims

Over the past decade, the number of educational programs in correctional institutions that involve both offenders and victims has increased greatly. The purpose of such programs is to help offenders understand the devastating impact their crimes have on victims and their families and friends, on their communities, and on themselves and their own families. For victims, participation in programs with offenders is useful because although they cannot undo the harm they have suffered, they may prevent others from being victimized. Studies indicate that participation in impact panels can help victims heal emotional scars.[55]

> *You really need to get the criminal to understand that they are not the issue, the victim is the issue, society is the issue.*
>
> Larry Meachum,
> Director, Corrections
> Program Office,
> Office of Justice Programs,
> U.S. Department of Justice

- Most notable among victim-offender programs is the Impact of Crime on Victims (IOC) program initiated by the California Youth Authority in 1986, and since replicated in over 20 juvenile and adult correctional agencies and numerous diversion programs. IOC programs include a 40-hour educational curriculum designed to educate offenders about how different crimes affect victims and society as a whole.

- The U.S. Department of the Navy, Corrections and Programs Division, took an important step in integrating victims into its corrections process when it issued guidelines in 1996 instructing U.S. naval correctional facilities to implement impact-of-crime classes for prisoners prior to their release from custody. Information from both inmates and correctional staff indicate that offenders have a greater appreciation of the impact of their criminal conduct after completing the classes.

- The Federal Bureau of Prisons has piloted victim awareness classes on drug and domestic violence crimes for offenders in halfway houses in Baltimore, Maryland, and Tampa, Florida.

Victim-Offender Dialogue

During the past two decades, a number of victim-offender dialogue programs have been developed in juvenile and criminal justice agencies, predominantly in juvenile probation agencies. These programs, which primarily work with property crime cases, give victims an opportunity to engage in a structured dialogue with their offenders, who have already admitted their guilt or been convicted/adjudicated. When conducted with sensitivity to the victim and with care to ensure that participation by both victim and offender is fully voluntary, the victim-offender dialogue process has been found to be a very effective tool to help victims overcome their feelings of trauma and loss. The program gives victims greater satisfaction with the justice system, increases their likelihood of being compensated, and reduces fear of future victimization.

In recent years, correctional agencies have begun to experiment with the use of victim-offender dialogue in violent crime cases.

- In 1995, the Texas Department of Criminal Justice initiated a victim-offender mediation/dialogue program for victims of severe violence and their incarcerated offenders. The program was implemented with careful procedures to ensure that all cases are initiated by the victim and are appropriate for this form of intervention. The program has been so popular that more than 230 cases are currently waiting to enroll.

The Victimization of Correctional Staff

Correctional agencies have begun to recognize the impact of victimization on their employees. Correctional professionals are exposed to a wide range of victimization including verbal harassment by inmates, sexual harassment by inmates or colleagues, physical or sexual assaults, hostage-taking incidents, and even murder. To respond to the acute and chronic trauma this violence has on employees, 32 adult correctional agencies have developed written policies and procedures to respond to staff victimization and critical incidents.[56]

When correctional staff are victimized, procedures should be followed that deal with the effects of victimization. Most agencies have focused their attention on preventing, not responding to, these critical incidents. There is still little known about model community supervision protocols that prevent and respond to staff victimization. Many departments that manage prisons, including the California, Texas, and South Carolina Departments of Corrections, have developed solid procedures to assist victimized staff. These programs could be implemented in the field of community supervision. Guidelines for responding to correctional employees victimized in the line of duty have been developed under a national training and technical project funded by the Office for Victims of Crime.[57] It provides a comprehensive model for correctional agencies to follow in accordance with victims' rights laws within their state or on the federal level.

The Emergence of Restorative Justice

The criminal justice system as a whole, and corrections in particular, is undergoing a shift from an exclusive focus on offenders to a broader concern for the interests of victims and the community. When they seek restorative justice, agencies hope to repair some of the harm to the victim and the community through service and support. An important part of restorative justice is actively bringing offenders into the process of addressing the harm they have caused by both holding them directly accountable and helping them become productive, law abiding members of their community.

Correctional agencies are uniquely situated to ensure that offenders are held accountable to their victims and to the community. Many correctional agencies are initiating victim-offender programs because of their restorative potential and placing renewed emphasis on traditional practices such as restitution which exemplify the restorative tenet of holding an offender accountable for the financial losses suffered by their victim.

Numerous correctional agencies have created restorative justice staff positions, developed victim-offender programs, and refocused agency policies and programs on restorative principles. National correctional associations have initiated restorative justice committees that include victims and advocates as members. Many corrections professionals feel that this new perspective offers unique opportunities for improving the effectiveness of their work and allowing them to positively contribute to the safety and well-being of society.

The unprecedented partnerships between correctional agencies, crime victims, and those who serve them have increased and improved corrections-based victim services. Perhaps most important, crime victims are now validated as clients of corrections. This is justice at its finest.

Anne Seymour,
Project Manager,
Promising Practices
and Strategies for Victim
Services in Corrections

Recommendations from the Field for Corrections

Correctional agencies now provide a variety of victim services and creative new programs to make offenders more aware of and responsible for the consequences of their crimes. Many agencies regularly incorporate victim impact information into presentence investigation reports, collect and disburse restitution, and notify victims of and allow their participation in parole hearings. Nonetheless, much work remains to involve victims in correctional decisions as fully as their legislative and constitutional rights allow. The following recommendations offer specific steps to move correctional agencies toward that goal.

CORRECTIONS RECOMMENDATION FROM THE FIELD #1

Adult and juvenile correctional agencies should open channels of communication with the community and with crime victims. As a first step, every state department of corrections and paroling authority should establish a victim advisory committee that includes victims and service providers to guide and support victim-related policies, programs, and services.

One of the most effective ways correctional agencies can become more responsive to crime victims' needs is engaging the community. Increased communication among corrections professionals, victim advocates, and crime victims will foster better understanding of their respective roles in the justice system and help repair longstanding misunderstandings that fuel mutual distrust. This dialogue must involve all cultural and ethnic groups in the community. The hiring of multicultural and multilingual staff for correctional agencies should become a priority to meaningfully achieve this end.

Following the lead of a number of state correctional agencies, all state departments of corrections and paroling authorities should create victim advisory committees or boards to guide the development of departmental policies and programs. These committees should review and comment upon a wide range of victim-related issues, including the agency's mission statement, victim notification procedures, parole procedures, policies regarding protection of victims from offender intimidation, victim-offender programming, and informational materials for victims. Crime victims, particularly those whose cases have been through the criminal or juvenile justice system, have a great deal to contribute to making the correctional system more sensitive and accessible to victims. Their expertise should be used as part of victim advisory committees to review all issues that affect victims. Similarly, some correctional officials serve in leadership capacities within state victim coalitions and victim service organizations. These mutual efforts to increase awareness and understanding of the respective needs of victims and corrections are commendable and should be expanded.

Correctional agencies should have a working knowledge of the range of victim service providers and resources in their local community, and pursue opportunities for enhancing collaboration with them through interagency agreements and joint projects such as the development of victim service resource directories.

CORRECTIONS RECOMMENDATION FROM THE FIELD #2

Correctional agencies should designate staff to provide information, assistance, and referrals to victims of crime.

The majority of adult corrections and paroling authorities have designated staff to assist victims of crime, while only a handful of juvenile correctional agencies have done so. Correctional agencies should have centralized units that provide a range of services to enforce victims' rights, coordinate and implement internal training for staff, external training for victims' organizations, and cross-training for allied justice professionals. In addition, every work site within correctional agencies should designate a staff member to serve as liaison to victims and service providers in the community.

CORRECTIONS RECOMMENDATION FROM THE FIELD #3

Mission statements guiding adult and juvenile correctional agencies and paroling authorities should recognize victims as an important constituency and address victims' rights and services.

Mission statements articulate an agency's philosophy and guide the implementation of the agency's goals, yet the majority of adult and juvenile correctional agencies' mission statements are silent about their responsibility to crime victims. Including crime victims in mission statements sends a strong message that victim safety and well-being is part of the agency's public safety mission, that victims are important clients of the agency, and that the agency balances its philosophy to be both offender-directed and victim-centered. This philosophy embodies the principles of restorative justice, an approach that incorporates the rights and needs of the community and the victim in offender management.

> *We cannot behave as though we are islands unto ourselves. We exist to protect the public, and if we can isolate the victims in the community and bring them in to tell us how we can better serve them, I think that is the way to go.*
>
> Harold W. Clarke,
> Director, Nebraska Department
> of Correctional Services

CORRECTIONS RECOMMENDATION FROM THE FIELD #4

Correctional agencies should notify victims, upon their request, of any change in the status of offenders, including clemency or pardon, that would allow them to have access to the community or to the victims themselves.

To augment victims' safety, corrections and custodial agencies must notify victims well before any planned or scheduled changes in an offender's status to give them sufficient time to take precautions for their safety and prepare to participate in related hearings. Timely notice also gives victims an opportunity to exercise their right to submit a victim impact statement or attend and testify at parole or other postconviction proceedings. Notices should be provided in languages common to the community, and they should be designed to reach victims with limited literacy as well as households that do not have telephones.

Upon request, victims should be notified of all significant changes in inmate status. These status changes include early, educational, work, and curfew release, and release for overcrowding, funeral and holiday furlough, discharge, parole, medical emergency, escape and apprehension, clemency, reincarceration due to revocation of parole, less restrictive classification, commutation, pardon, death, and death penalty proceedings.

In addition, victims should be notified if an offender on probation or parole does any of the following: fails to comply with a special condition ordered by the court or releasing authority; is rearrested; violates bond or bail conditions; absconds; or is transferred or released from supervision. In states where there are no parole hearings, victims should be notified of the name and telephone number of the parole agent and of all conditions attaching to the supervised release.

At a minimum, correction officials should provide victims with the following information and assistance regarding the release of an offender:[18]

- The date and time of the release at least 60 days prior to release.
- Conditions of the release, if any, including no-contact provisions.
- Procedures for contacting officials when violations of release conditions occur and for reporting acts of harassment, intimidation, and violence.
- Name, address, and phone number of the parole or probation officer assigned to supervise the offender.
- Name of the offender if different from the name under which the offender was originally charged, convicted, and incarcerated.
- Known address, city, and county where the offender will be released or supervised.
- Recent picture and general description of the offender upon release.
- Assistance with the development of a victim "safety plan" if the victim or authorities believe that the release of the offender threatens the safety of the victim or their family.

- Notification of any violation of the offender's conditions of release, and notification of the victim's right to attend and provide information orally and in writing at any parole or probation revocation hearing.

CORRECTIONS RECOMMENDATION FROM THE FIELD #5

Correctional agencies should place a high priority on ensuring the protection of victims from inmate intimidation, threats, or physical or other harm from offenders under their supervision.

Correctional agencies should use the measures available to them to limit contact between inmates and victims and respond quickly to incidents of intimidation or harassment. These measures include blocking telephone access to victims' phone numbers through devices such as Caller ID, screening inmates' outgoing mail, revoking inmate privileges, transferring inmates to more restrictive confinement, and in more serious cases, filing new criminal charges. Where necessary, legislative authority should be sought to facilitate the use of these measures. In addition, all correctional agencies should follow the lead of the 31 states that recommend revocation of parole when a parolee in any way harasses, intimidates, or retaliates against a victim.

Special attention should be given to protecting special types of victims from threats of intimidation and harm, including victims of domestic violence, sexual assault, child abuse and neglect, elder neglect and abuse, and stalking. Due to the high risk of further victimization in these cases, protective orders should be a routine condition of release. Offenders who have committed serious violent crimes and have great potential to revictimize, such as sex offenders and batterers, should be placed under intensive supervision. Officers should make frequent contacts with these offenders and their victims to ensure the victim's safety. Probation and parole agencies should ensure that they have sufficient multicultural and multilingual staff to communicate effectively with victims and the offenders they supervise.

CORRECTIONS RECOMMENDATION FROM THE FIELD #6

Correctional agencies should make information about offender status and victims' rights accessible to crime victims through multilingual, toll-free numbers and printed materials.

All states should develop a statewide, multilingual, toll-free information line for crime victims to receive timely information about offender status, location, release dates, parole hearing dates, conditions of parole, and other relevant information. The Washington State Department of Corrections, for example, has established a toll-free number for victims, witnesses, and concerned citizens to call for information and assistance. This innovative approach ensures accessibility of information to *all* victims, regardless of where they live or whether they can afford to make a long-distance telephone call.

Correctional agencies should develop and distribute brochures about victims' rights and services to victims of offenders they are incarcerating or supervising. Materials should be multilingual and explain the basic components and processes of the postconviction criminal and juvenile justice systems. As part of the sentencing process, victims should be given specific information about their rights and the services available to them while the offender is under community supervision or surveillance.

The Department of Corrections has the strategic information as well as the statutory obligation to meet the needs of the whole community, not just the offenders, but the people to whom those actions have occurred.

Dora Schriro,
Director, Missouri
Department of Corrections

Providing timely information to crime victims is extremely important. Most crime victims have a much better understanding of the "front end" of the criminal and juvenile justice system than corrections and parole. Victims and service providers who do not come into regular contact with the correctional system find it confusing. It is important for victims to understand how the process works, particularly how offenders are processed and the different program and surveillance activities correctional agencies provide.

Victims especially need to know about their rights. The American Correctional Association strongly recommends that correctional agencies develop and make available to victims and their representatives easy-to-read descriptive materials about victims' rights within the correctional system. The materials should describe the agencies' policies and procedures for victims' rights and services during supervision and surveillance and include the name, telephone number, and address of a supervising officer victims can contact. It is critical that the information be printed in the major languages spoken by the population in that jurisdiction. Where possible, multicultural and multilingual victim liaison officers should be available to ensure that information, assistance, and referrals are provided when needed.

CORRECTIONS RECOMMENDATION FROM THE FIELD #7

Correctional agencies should collect and distribute restitution payments consistent with the court's order to ensure that victims receive fair compensation from offenders who are incarcerated or released on probation or parole. Wage-

earning opportunities for inmates, wards, and parolees owing restitution should be increased. Restitution and other compensatory sanctions must be enforced, including requiring the timely payment of restitution as an automatic, essential condition of probation and parole. Paroling authorities should have the authority to both order restitution and incorporate a judicial restitution order as a condition of parole. Statutes should be amended to provide that any damages awarded to offenders from civil suits brought against correctional institutions be applied first to any outstanding restitution or civil judgments.

When required by a court order, the obligation to make financial restitution is part of the sanction of the offender, and its collection should become a high priority in all correctional agencies. The payment of restitution should be the *first* financial obligation ordered by the court. Legislation should be enacted allowing the extension of probation when restitution has not been paid to permit continued supervision and enforcement of payment. Release from correctional supervision should be contingent upon meeting financial obligations to victims as well as balancing the offender's reasonable opportunity to meet these obligations. The absence of offender resources at the time of sentencing should not excuse the offender from the obligation to repay the victim. Rather, reasonable terms of restitution can be put in place to collect future income.

Records indicate that several million dollars are awarded to prisoners every year as a result of civil suits brought against the federal prison system and other correctional authorities. Before these monetary awards are turned over to offenders, they should be used to satisfy any outstanding restitution or civil judgement orders and to pay any outstanding fines or fees.

CORRECTIONS RECOMMENDATION FROM THE FIELD #8

Victims should have input into all decisions affecting the release of adult and juvenile offenders. Input can be provided through oral statements; written, audio- or videotaped victim impact statements; and video teleconferences of postconviction

hearings. Victim impact statements should be included in all presentence reports for adult and juvenile offenders.

Probation personnel should gather victim impact information through personal interviews with victims during the presentence investigation process, and they should ensure that presentence investigation reports address the impact of the crime on the victim, including the victim's financial, psychological, and physical injuries. Victim impact statement forms should be given to crime victims, and assistance should be provided, when possible, to help victims complete the forms. When completed, the statement should be attached to the presentence investigation report and added permanently to the offender's or inmate's file. If the statement is written by the probation officer, the victim should be given the opportunity to read it and file any disagreements on the record.

If community supervision is being considered, specific conditions of supervision should be ordered based on the victim's input. Special conditions to consider include restitution and other financial obligations such as child support, restrictions on offender contact with the victim, victim awareness classes, victim-offender programming, treatment to stop the offender's harmful behavior, treatment for alcohol and other drug abuse, community service with victim service agencies, alcohol and other drug treatment, and letters of apology when requested by the victim.

Victim impact statements and other presentence information should be forwarded to probation, corrections, and parole staff to help them make appropriate recommendations to the court or paroling authority regarding classification, programming, and release decisions, including the timely payment of restitution and no-contact orders as conditions of release. Victims should be given the opportunity to update these impact statements as necessary. Effective (and preferably automated) coordination must be established among the prosecutor, court, probation, corrections and parole.

CORRECTIONS RECOMMENDATION FROM THE FIELD #9

Special consideration should be given to the needs of victims who participate in parole proceedings, especially when these proceedings are conducted within prisons. Correctional facilities should provide victims with an orientation to the proceedings and separate waiting areas away from the offender's family and friends.

Victim involvement in parole hearings was one of the first rights extended to crime victims in the area of corrections. Over the past decade, victims' rights to participate in the parole process have increased considerably. In 1996, three-fourths of the states allowed victims to attend and testify at parole hearings.[39] However, even though this right has been extended to most victims, parole agencies report that less than half of parole hearing cases filed have victim notification requests, and that victims attend only one-fourth of parole hearings.[40] Research is needed to determine why more victims are not exercising their right to participate in the parole process.

For those who choose to participate in the parole process, 38 percent of paroling authorities have designated a support person to accompany victims, witnesses, and their families to hearings related to the offender's release, although that person varies by state and could be a victim-witness advocate, a hearing officer, a parole board member, or a parole investigator.[41] Moreover, while the majority of paroling authorities provide information on who can attend parole hearings and their date, time, and location, other essential information such as directions to the hearing, guidelines on how to present testimony, and the order of the testimony to be presented is seldom provided.

To help protect victims who come forward to attend parole hearings, 75 percent of parole agencies have established procedures to limit or control face-to-face confrontations between the victim and offender.[42] However, unwanted confrontations between the victim and the offender's family and friends are still a concern and it is essential that facilities provide waiting areas that separate victims and their offenders by sight and sound.

CORRECTIONS RECOMMENDATION FROM THE FIELD #10

Information regarding the rights and needs of crime victims should be incorporated into education for correctional staff at all levels, including administrative and line staff. When possible, interdisciplinary training programs should be conducted with other victim service providers. All agency staff and parole board members should be educated on the impact of victimization and victim services as part of their job orientation and in ongoing inservice training. This training should include issues of cultural sensitivity.

Without adequately trained staff, the provision of victims' rights and services within corrections will never be fully realized. Across the broad field of corrections, training for new and experienced staff in victim services is needed. Curriculums have been developed by some states, including Washington, Utah, and South Carolina, that outline the dynamics of victimization, applicable victim rights laws and regulations, and how to respond to victims' needs and concerns. In addition, to help protect victims from intimidation, harassment, and revictimization by their offenders, probation and parole training should include supervision and surveillance techniques.

Finally, agencies should provide interagency training and support public awareness efforts to educate other service providers about community supervision, and they should seek out opportunities and forums to accomplish this goal. Victim service conferences and seminars provide many opportunities for training throughout the year. Myriad resources, including training curriculums, have been developed through the leadership and support of the Office for Victims of Crime. Among them are *Promising Practices and Strategies for Victim Services in Corrections* (National Victim Center, 1997); *Promising Strategies for Victim Services in Probation and Parole* (American Probation and Parole Association, 1997); and *Responding to Workplace Violence and Staff Victimization* (National Victim Center, 1997).

CORRECTIONS RECOMMENDATION FROM THE FIELD #11

Each correctional agency should establish written policies and procedures for responding to correctional staff who are victimized on or off the job, as well as for responding to critical incidents within correctional institutions. Correctional agencies should provide training on the impact of crime for staff and supervisory personnel, beginning with basic academy training.

Every correctional agency should have policies, procedures, and programs to deal with staff who are victimized on or off the job and to assist their families. Support services must include short- and long-term counseling; peer support groups; group crisis intervention after critical incidents for victims, witnesses, and any agency employee who is traumatized by the incident; referrals to victim services, counseling, and support groups in the community; referrals to criminal and juvenile justice agencies in cases involving prosecution; and assistance with completing victim compensation and workers compensation forms. Programs should also address the special needs of staff who witness executions or who provide death notifications.

Special training courses should be provided for supervisors on victimized staff in the workforce. Protocols should be developed to prevent and respond to offender victimization of officers and staff. Work-related violence is treated either as a criminal or an administrative matter depending on the nature of the offense. Regardless of the sanction, victimized staff and their families should be automatically notified of all major decisions regarding their victimization.

CORRECTIONS RECOMMENDATION FROM THE FIELD #12

To increase offender awareness of the consequences of their actions on victims' lives, correctional agencies for both adult and juvenile offenders should use victim impact panels and conduct courses about the effects of crime on people's lives.

Victim impact awareness efforts should be a basic component of the educational and treatment program of correctional agencies in diversion, probation, prison, detention, and parole settings. Resources should be allocated to maximize the number of participating offenders. Victim impact classes within correctional agencies should be expanded nationwide, using victim and community volunteers to speak to the classes. Victim impact panel volunteers should include individuals from culturally diverse communities and persons with bilingual speaking skills.

CORRECTIONS RECOMMENDATION FROM THE FIELD #13

Victim-offender dialogue programs that ensure voluntary victim involvement, protect and support victims, and use highly trained facilitators and mediators should be available for victims upon their request.

Mediated dialogue between victims and offenders allows victims to ask questions about how and why they committed their crimes. It allows offenders to learn more about the impact of their crimes and to express remorse when possible. Offender accountability is an important goal of this process but the needs of victims should be the central focus. Participation must be voluntary for both parties, and programs must carefully screen and prepare victims and offenders prior to arranging for meetings. Meetings should be conducted by a trained facilitator who is well schooled in the basic tenets of victim issues and sensitive to the multicultural and multilingual needs of the victim. Victims should be offered counseling support before and after meetings and allowed accompaniment to the meetings, if requested.

CORRECTIONS RECOMMENDATION FROM THE FIELD #14

Crime victims should be notified of any violation of the conditions of an offender's probation or parole and should be allowed to provide input prior to or during the probation or parole violation hearing.

The victim of the original crime, as well as the victim of any new crime that is the basis of a revocation hearing, should be notified of the rearrest of the offender and should have an opportunity for input into the revocation hearing.

CORRECTIONS RECOMMENDATION FROM THE FIELD #15

When a sex offender is released, uniform community notification practices should be developed and implemented to promote public awareness and provide consistent protection for citizens from state to state.

As of mid-1997, most states had enacted laws providing for community notification of released sex offenders or authorizing access to sex offender registration by the general public or to certain community organizations and officials.[43] Considering that few states had implemented such a law prior to 1994, great legislative progress has been made to improve the safety of victims and our communities.

However, while the federal Megan's Law amendment that took effect in May 1996 requires states to release relevant information on registered sex offenders as necessary for public protection, each state is allowed to determine how such notification will be accomplished. As a result, while virtually anyone in the nation can find out where registered offenders reside in every county in Kansas, for example, through the website of the Kansas Bureau of Investigation,[44] registration information in Connecticut may be released only to governmental agencies conducting background checks or to an individual citizen when it is determined that disclosure is necessary to protect that individual's safety.[45] In California, citizens can view a listing of registered offenders in the state via CD-Rom at their local law enforcement agency,[46] while individuals in North Carolina must provide pertinent information about the person they are checking on in order to obtain a copy of an offender's registration form.[47] Massachusetts permits inquiries on whether any sex offenders live or work within a one-mile radius of a specific address or street.[48]

Such wide disparity in the way community notification laws are implemented defeats the intent of the federal mandate. As Congressman Dick Zimmer, the legislation's primary sponsor, testified at a hearing of the House Subcommittee on Crime, "Our communities have the right to know if there is a potential threat to their children's safety. But that safety is jeopardized if every state has different notification procedures. We must strengthen the existing law and ensure that a strong, uniform Megan's Law is in effect in every state."[49] To create a community notification system that is effective across state lines, states must adopt policies and procedures that are consistent with those in other states. Information sharing among the officials responsible for sex offender registration and notification programs in each state is critical to developing the most effective notification strategy possible. In 1996, in response to a Presidential directive, the Attorney General developed a plan for a national database to track convicted sex offenders; shortly thereafter, Congress mandated the establishment of such a database.[50] The database has been operational since early 1997, and a growing number of states participate by providing sex offense conviction information. The database can be accessed by law enforcement officers from all jurisdictions, and alerts them to individuals' sex offense convictions in states that participate in the database. States should be encouraged to participate in the national database. Furthermore, as community notification strategies are implemented and improved, victims and advocates should be involved in all planning, outreach, and education efforts.

Additionally, public education and awareness of the proper use of the information obtained through community notification must be integrated into the notification process, not only to inform members of the public how to access such information but also to warn of the consequences of taking criminal action against an offender.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

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17 *Id.* at 15, 16.

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19 *Id.* at 17.

20 *Id.* at 1.

21 This statement was made in January of 1997, at the American Correctional Association's winter conference by Ron Angelo, Director of Virginia's Department of Corrections.

22 Seymour, *National Victim Services Survey of Adult and Juvenile Correctional and Paroling Authorities 1996.*

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43 States which prohibit access to sex offender registration information except to criminal justice officials are Hawaii, Kentucky, Missouri, Nebraska, and New Mexico.

44 KAN. STAT. ANN. § 22-4909. Registered offenders can be checked at www.ink.org/public/kbi.

45 CONN. GEN. STAT. § 54-102r.

46 CAL. PENAL CODE § 290.4.

47 N.C. GEN. STAT. § 14-208.9.

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49 *Hearing on Megan's Law Before the Subcomm. On Crime of the House Committee on the Judiciary,* 104th Cong., 2d Sess., Testimony of Rep. Zimmer (Mar. 7, 1996).

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SECTION III

New Directions for Victim Assistance and Allied Professions

Members of many different professions work directly with crime victims or come into contact with them on a daily basis. In addition to the field of victim assistance, primary among these are the fields of health care, mental health, law, education, faith, business, and the news media. This section describes the important roles that these professional communities can play in assisting victims and chronicles the major accomplishments that each has made over the past few decades to meet victims' needs.

This section also identifies areas within each profession where services for victims of crime can be enhanced and highlights the innovative promising practices that have been developed to improve victim services. Each chapter contains recommendations developed by experts in that profession and others in the victims' field. The recommendations do not necessarily reflect the views of any one individual or group, but reflect a wealth of diverse voices from the field.

Many of the recommendations focus on developing educational programs on victims' issues, policies and protocols for working with victims, technological applications, programs that involve victims themselves in providing services, multidisciplinary initiatives, and sensitive responses to staff victimization. A common theme running through all of the recommendations is an urgent concern to meet the needs of underserved victims, such as victims with disabilities, hate and bias crime victims, and gang violence victims, and to improve outreach to victims when language or cultural barriers prevent access to services.

CHAPTER 6

New Directions for the Victim Assistance Community

In the early 1960s, incidents of serious crime began to steadily rise in the United States, and their devastating effect on American life was evident by the early 1970s. In 1981, the year before the convening of the President's Task Force on Victims of Crime, the number of people victimized nationwide reached an historic high point. The victims' movement began in earnest during this period.[1]

Early major strides were made in local communities by volunteers, many of whom were victims or survivors of crime motivated by the inadequate response of the criminal justice system in the aftermath of their victimization. The first three victim assistance programs in the United States were established in 1972. Two were rape crisis programs: Bay Area Women Against Rape in Alameda County, California, and Rape Crisis Services in Washington, D.C. The third program, Aid to Victims of Crime, in St. Louis, Missouri, concentrated on crisis intervention for all crime victims. In 1974, the first battered women's shelter was established in Denver, Colorado.

The first criminal justice-based victim assistance programs were also established in the 1970s. In 1974, the first eight prosecutor-based victim-witness assistance pilot programs were created with support from the U.S. Department of Justice (DOJ). DOJ funds also supported the development at that time of the first law enforcement-based victim-witness programs in Fort Lauderdale, Florida, and Indianapolis, Indiana. Elements of these early victim assistance programs remained guideposts as the victim assistance field grew and formed the foundation of basic victim services today: crisis intervention, support during the criminal justice process, assistance in applying for compensation and in receiving restitution, and aid during the presentence process in preparing victim impact statements (first introduced in the Fresno County, California Probation Office in 1974).

In 1975, the first national organization to assist and advocate on behalf of crime victims, the National Organization for Victim Assistance, was formed, and it held its first national conference a year later.[2] In 1978, the National Coalition Against Sexual Assault and the National

When the victims' movement was launched in the early 1970s, many of us thought that establishing victim assistance programs, especially in prosecutors' offices, was our first and final challenge. We know now that such a 'final' challenge was but a first step. Victim assistance must become a pervasive, immediate presence in all our communities, responsive to the special attributes of those we serve, and suffused with enforceable rights. So the challenge of our beginnings has blossomed into a host of challenges today in America and indeed, across the world. I believe we are up to the task.

Marlene Young,
Executive Director
National Organization for
Victim Assistance

Coalition Against Domestic Violence were organized by rape crisis and domestic violence programs, and the first national organization to assist homicide survivors, Parents of Murdered Children, was created. Mothers Against Drunk Driving was formed 2 years later in 1980. In addition, the Vera Institute of Justice began a demonstration project in the 1970s that assisted victims and witnesses in criminal courts in Brooklyn, New York. Today, this comprehensive nonprofit program known as Victim Services, Inc., employs a staff of 650 and operates with an annual budget of $30 million.

By the late 1970s, the victim assistance field had developed to the point of needing federal support. The U.S. Department of Justice, through a grant to the Urban Institute, responded by publishing a guide to the elements of a model victim assistance program and by beginning a project to identify exemplary projects around the country that other jurisdictions could replicate. In 1979, the Department funded the creation of six state networks of victim assistance programs.

In the 1980s, numerous other national victim advocacy and assistance organizations were established, including the National Center for Missing and Exploited Children, formed in 1984 to implement the newly passed National Missing and Exploited Children Act, and the National Victim Center, established in 1985 to advocate for the creation and expansion of victims' rights within the criminal and civil justice systems. Other national organizations started in the 1980s include Security on Campus, founded by surviving parents after their daughter was murdered on a college campus; Concerns of Police Survivors, formed by the families of slain police officers disillusioned with the general lack of support and rights they received in the aftermath of their loss; and the Victim Assistance Legal Organization, founded by Frank Carrington, a member of the 1982 President's Task Force.

The enormous contributions of grass roots advocates across this county should not be ignored. Too often they remain the outsiders or at best on the fringes of credibility. They deserve acceptance as the experts many of them have become. Their patience, passion, and perseverance have enabled them to endure, to overcome, and to achieve extraordinary advances for all victims across this country.

Roberta Roper,
Founder, Stephanie
Roper Committee

The Impact of the 1982 President's Task Force

The 1982 President's Task Force on Victims of Crime provided leadership at a critical time for the victim assistance field. It highlighted the lack of services to victims and underscored the need for all participants in the justice system to respond sensitively to victims. The Task Force did not directly address the services provided by victim assistance programs based outside of the justice system. It did, however, append a set of model program elements for justice system-based victim-witness programs and provided references to programs that were implementing them. These elements included:

- Crisis counseling at crime scenes.
- Hotline services for victims and witnesses 24 hours a day.
- Emergency monetary aid for needy victims with problems caused by crime.

- Information on and referrals to victim assistance and compensation programs.
- Assistance with victim compensation.
- Public education.
- Intercession on behalf of victims and witnesses with employers and creditors.
- Transportation services.
- Translator services.
- Supportive counseling or companionship during court appearances.

Today, many community-based victim assistance programs provide these services or work in collaboration with other agencies to do so. Additional services that many programs provide include information about victims' rights, child care, support groups, security information, case monitoring, prevention activities, and assisting victims who want to become involved in activism. Many programs also provide education and training for victims about the justice process and community resources.

> *When we began advocating for victims in 1972 a Common Pleas judge candidly said we were wasting our time. But, he added, if we happened to succeed the wave would ripple across the entire pond. The wave is growing to tidal proportions.*
>
> Dr. Robert Denton,
> Executive Director,
> Victim Assistance Program,
> Akron, Ohio

Additional Forces That Shaped the Field of Victim Assistance

Since the publication of the *Final Report,* three other significant developments have had a major impact on the field of victim assistance. First, the creation of state and federal funding programs for victim assistance such as the Victims of Crime Act of 1984 (VOCA), which created the federal Crime Victims Fund, provided a more stable source of funding for local victim assistance programs. Since the passage of VOCA, more than $2.5 billion has been distributed to local victim assistance programs and state compensation programs from fines and penalties assessed against federal offenders. More recently, the passage of the Violence Against Women Act of 1994 made available $1.6 billion to support domestic violence and sexual assault programs and research. In addition, all states now provide funding for victim assistance programs, although the levels of funding and types of programs funded vary greatly by state.

Second, the establishment of the Office for Victims of Crime (OVC) provided financial and technical support for the development and dissemination of model protocols for victim assistance programs, diverse training curricula, and promising practices, as well as the training of thousands of victim service providers nationwide.

Third, the enactment of state crime victims bills of rights in the 1980s and the passage of state constitutional amendments in the 1990s have established a legal foundation for criminal and juvenile justice agencies to provide supportive services to crime victims, such as information and referrals, assistance with victim impact statements, help in collecting restitution, and a wide range of victim notification services.

The Office for Victims of Crime is committed to enhancing the Nation's capacity to assist crime victims and to providing leadership in changing attitudes, policies, and practices to promote justice and healing for all victims of crime.

Office for Victims of Crime
Mission Statement

Office for Victims of Crime
U.S. Department of Justice

Established 1984

The Office for Victims of Crime (OVC) was established by the Victims of Crime Act of 1984 (VOCA) to administer federal funds that support victim assistance and victim compensation programs around the country, and to advocate for the fair treatment of crime victims. To this end, OVC administers the Crime Victims Fund, which is derived not from tax dollars but from fines and penalties paid by federal criminal offenders. Over 90% of the Fund is distributed to the states to help fund their victim assistance and victim compensation programs. OVC administers the remainder of the Fund to support services to federal crime victims, provide training designed to educate criminal justice and allied professionals regarding the rights and needs of crime victims, provide technical assistance to criminal justice and allied professionals, support training and victim assistance programs in Indian country, and initiate and support innovative projects with national impact. This office is one of five bureaus within the Office of Justice Programs, U.S. Department of Justice. For further information contact OVC at 202/307-5983 or visit OVC's webpage at http://www.ojp.usdoj.gov/ovc/.

Violence Against Women Grants Office
U.S. Department of Justice

Established 1994

The Violence Against Women Grants Office (VAWGO) administers the U.S. Department of Justice's formula and discretionary grant programs authorized by the Violence Against Women Act of 1994. The program assists the nation's criminal justice system in responding to the needs and concerns of women who have been, or potentially could be, victimized by violence. Grant programs emphasize enhanced delivery of services to women victimized by violence; strengthen outreach efforts to minorities and disabled women; and provide Indian tribal governments with funds to develop and strengthen the tribal justice system's response to violent crimes committed against Native American women, through a discretionary grant program. In addition, the Office provides technical assistance to state and tribal government officials in planning innovative and effective criminal justice responses to violent crimes committed against women. OVC works closely with the Violence Against Women Office, which is responsible for Department-wide coordination of this issue. For further information contact VAWGO at 202/307-6026 or visit VAWGO's webpage at http://www.ojp.usdoj.gov/VAWGO/.

Victim Assistance Services Today

This nation's capacity to respond to victims has changed significantly in the 15 years since the release of the *Final Report* of the President's Task Force. The victim assistance movement has grown rapidly into a full-fledged advocacy and service field dedicated to meeting the physical, financial, and psychological needs of victims and their families. More than 10,000 programs now provide support and assistance to victims in the aftermath of crime.

Victim assistance programs have become part of the nation's criminal and juvenile justice infrastructure and now exist in law enforcement agencies, prosecutors' offices, and correctional agencies. Over 2,000 community-based programs assist battered women, and over half provide shelter.[4] Nationwide there are 2,000 rape crisis centers, more than 200 chapters of the advocacy and support group Parents of Murdered Children, and over 500 chapters of Mothers Against Drunk Driving. Multidisciplinary children's advocacy centers, many of which are community or hospital-based, help abused children in more than 350 jurisdictions, and Triad programs assist elderly crime victims in more than 525 communities. Numerous national organiza-

> *As the crime victims movement enters its third decade, it is useful not only to reflect on where we have been, but where we are headed. In order to make sure we have neither reached our zenith nor exhausted our welcome as an important component of the criminal justice system, we should take a long look at what we do—and most important of all—whether we can do it better.*
>
> David Austern, President,
> National Victim Center

National Organization for Victim Assistance

Founded 1975

The National Organization for Victim Assistance (NOVA) is the world's oldest broad-based victim rights group. A nonprofit, membership organization, NOVA is guided by four purposes: to be of service to its members; to be an advocate for victim rights and services in federal, state, and local legislatures and executive agencies; to be a training and educational resource to victim assistance and allied professionals; and to be of direct service to victims who call the NOVA offices or who are involved in a large-scale disaster to which a NOVA crisis team responds.

National Victim Center

Founded 1985

The National Victim Center (NVC) is a resource and advocacy center for victims of crime. The Center serves as a national advocate to establish and protect legal rights for victims and to secure the resources they need to recover from the trauma of crime. NVC programs emphasize public education, public policy through legislative advocacy, and resource development for victims. NVC provides technical assistance to victim service providers, criminal justice, and allied professionals and supports the creation of model programs and materials including the nation's most comprehensive library collection on victim-related issues.

tions assist and advocate on behalf of crime victims, providing essential support for the expanding network of Victim Assistance programs across the country. These are extraordinary accomplishments for a movement that started modestly only three decades ago.

Public Awareness

Today, many victim assistance programs at the local, state, and national levels are involved in raising public awareness about crime victims issues and available services. Many programs provide education about victim needs and appropriate and sensitive treatment to police, prosecutors, judges and corrections officials on an ongoing basis. Advocates for victim services also educate students in schools and at other community locations, make television appearances, post advertisements, and distribute program literature.

At the national level, Congress designates one week each year, usually in late April, as National Crime Victims Rights Week. During that week, national awards are presented to outstanding victim service providers from across the country. The week also provides an opportunity for thousands of local communities to pay tribute to the millions of Americans who have been victimized by crime. Each year the Office for Victims of Crime sponsors the development of a public awareness *Resource Guide* for victim assistance programs to use in planning National Crime Victims' Rights Week activities. Over the years, hundreds of ideas to increase public awareness of victim's issues have been presented in the guide. They include sponsoring candlelight vigils, runs, rallies, memorial walls, and tree plantings; conducting forums; publishing editorials and broadcasting public service announcements; creating posters, buttons and brochures; and displaying public awareness information in courthouses, school libraries, hospitals, local retail establishments, and other civic locations. For example, in California, the Youth Authority and Department of Corrections each year print copies of the *Resource Guide* materials and distribute them to their many facilities throughout the state to increase offender awareness of the impact of victimization. Inmates also print public awareness materials for victim assistance programs to distribute throughout the week. Since 1995, the Victims' Assistance Legal Organization has produced OVC's *Resource Guide* and each year distributes it to approximately 6,000 programs nationwide.

Expanding Victim Assistance Services

As the victim assistance field has grown, so has its awareness of the complex needs of crime victims and the demand for coordinated, multidisciplinary responses. There is increasing understanding that services are needed for communities as a whole when they are affected by certain crimes, such as acts of mass violence and hate and bias motivated violence. At the same time, victim assistance providers are recognizing that services must be tailored to meet the needs of traditionally underserved crime victims including diverse cultural populations, crime victims with disabilities, elderly crime victims, victims of gang violence, and victims of white collar crime/fraud. Expanded knowledge about trauma, grief intervention, and the genesis of criminal activity is leading victim assistance providers to develop programs that address these issues. In short, the field of victim assistance is dynamic and evolving. A few of the issues currently facing the field are discussed below.

Community Response to Crime Victims

Communities around the country are working toward the goal of integrated victim service delivery systems where quality services to crime victims are available and readily accessible to all victims. In some communities this approach takes the form of making services available to victims in one location.

- In Jacksonville, Florida, a unique comprehensive victim service center has been created that provides a range of services in one location for all crime victims. Center staff operate an emergency fund for victims and can pay for expenses such as emergency medical items and new locks for burglarized homes. Counselors at the center provide therapy onsite and respond with law enforcement to major catastrophes and homicides as part of a crisis response team. A representative of the state victim compensation program and self-help groups such as Mothers Against Drunk Driving and Parents of Murdered Children are also located at the facility. Bringing these critical services to one location greatly facilitates the system's response to victims: victims have immediate access to a range of needed services. The program has its own cable television show and school crime prevention program and offers many other services for victims.

In other communities, this integrated approach takes the form of strong partnerships among victim service providers, criminal justice and emergency response personnel, allied professionals, and community leaders.

- In Denver, Colorado, and Travis County, Texas, the Office for Victims of Crime has provided funding for two demonstration sites called Victim Services 2000 to develop and implement seamless, comprehensive, coordinated, interdisciplinary systems of services for victims of crime. It is hoped that the projects will result in model environments for crime victims in which culturally and linguistically appropriate services are available to every victim. Both projects will conduct thorough needs assessments, develop innovative intervention strategies and services, institutionalize cross-training on victims issues throughout the criminal justice, community nonprofit, and

The philosophy of Victim Services 2000 is that there is 'no wrong door' in a community when crime victims seek help and support in the aftermath of crime. Whether victims turn to their school, church, hospital, social service or criminal justice agency, each entity will be prepared to provide information, services or referrals and will treat each victim with dignity and compassion.

Steve Siegel,
Director of Program Development,
Denver District
Attorney's Office

allied professional communities, and utilize technology to integrate services and communication among providers. Victim Services 2000 projects will serve as models for other communities to follow in the 21st century.

One [incident] that really stays home for me was the incident where a five-year-old child was thrown out of a building on the 14th floor. This event was witnessed by 100-plus children in the housing development. There were several thousand children who lived in the community who had either heard about it or were there later on and saw the ambulances or saw the police car there. And then there were thousands of families who lived in that particular housing development. As a member of the response team that went out, it was important not only to work with the children, but also with the families, with the community.

Dr. Pat Jones,
Clinical Psychologist,
at 1995 Public Forum
on New Directions

Community Crisis Response

Communities are also developing community crisis response capabilities to improve services to victims of violent crime following multiple victimizations. Individual or teams of trained responders assist victims through debriefings and training in the aftermath of criminal incidents that cause significant trauma to a community.

- The National Organization for Victim Assistance (NOVA) has provided training and technical assistance to support the establishment of crisis response teams in more than 15 states. Since 1986, NOVA has sent crisis response teams to 125 communities and has provided technical assistance to more than 300 others in the aftermath of communitywide disasters and acts of violence.

- Building on the work of NOVA and others, the Office for Victims of Crime has established a Community Crisis Response program to help communities following multiple serious victimizations. The program has been used to send a crisis response team to the Chicago Housing Authority following a weekend in which 13 people were murdered; to assist the Ramah branch of the Navajo Nation after an eight-fatality drunk driving crash; to bring a noted psychologist to work with survivors and community members following a quadruple homicide on the Wind River Indian Reservation in Wyoming; to provide help to the community of Dryden, New York, after the brutal murder of two local high school girls; and to fund crisis response teams that provided training and debriefings for thousands of school children, teachers and medical personnel after the bombing of the Alfred P. Murrah Federal Building in Oklahoma City.

Prior to the 1996 Summer Olympic Games in Atlanta, Georgia, OVC funded NOVA to provide community crisis response training to approximately 70 victim advocates and volunteers across the State of Georgia on national and international crisis response. Through this initiative, the Atlanta Victim-Witness Assistance Program developed a comprehensive crisis response plan for victim advocates in conjunction with the Atlanta Committee for the Olympic Games. OVC also funded the development of a videotape for law enforcement and a brochure for victims. After the bombing during the Olympics in Atlanta's Centennial Park, the trained advocates and volunteers were instrumental in ensuring that victims received needed services.

Respecting Cultural Diversity in Providing Victims Services

The racial and ethnic diversity of the United States has changed considerably in the past few decades. With this transition, victim assistance professionals face new challenges. Providing effective and sensitive services to victims now requires recognizing and respecting individuals' cultural differences and ensuring that services and information are available in languages other than English.

Unfortunately, the practice of delivering victim services does not yet fully reflect the extraordinary diversity of our nation's population. Some programs have made important strides by working to remove language barriers for victims in need of services. An organization called AYUDA in Washington, D.C., for example, offers bicultural and bilingual services to abused Latina women. In Orange County, California, the Gang Victim Services project of the county's Community Services Program provides multicultural, multilingual support to survivors and victims of gang violence. Many other programs across the country reach out to non-English speaking victims through translated materials. The most effective of these materials provide practical information, explaining the nation's justice system and victim services in an appropriate, culturally relevant manner.

> *Crime victims experience their bond of humanness, and therefore also their particular victimization, through a prism replete with racial histories, ethnic colorations, and cultural variations. Every criminal justice and crime victim-related issue is fundamentally multicultural.*
>
> Brian Ogawa,
> Director,
> Crime Victims Institute,
> Texas Office of the
> Attorney General

More difficult than removing language barriers, however, is providing services that accommodate and are responsive to different cultures. Differing concepts of suffering and healing influence how victims experience the effects of victimization and the process of recovery. The majority of crisis intervention methods and counseling modalities are based upon specific philosophies of suffering and healing derived from conventional Western theories. Methods for reaching culturally diverse victims must include resources that are specific to their needs. For example, the historical role of African American churches, the reliance upon Mexican curanderas and Native American shamans, and the social constructs of Asian life must be understood and utilized. Establishing a presence in ethnic neighborhoods, whether through storefront offices, mobile crisis units, outreach to homes, or coordination with community-based organizations, is essential.

Those responding to crime victims must make a concerted effort to incorporate the perceptions, beliefs, values, and experience of diverse cultures. The importance of cultural awareness was illustrated in the aftermath of Patrick Purdy's deadly assault weapon attack in 1989 on the school children of Cleveland Elementary School in Stockton, California. In the aftermath of the attack there was an outpouring of concern and support from across the nation. Five children had been killed and 29 children and one teacher wounded. Two of the central events in the healing process for Cambodian and Vietnamese surviving family members were a Buddhist funeral service and a ceremonial purification of the school grounds to release the children's spirits. These rituals were strange to the local district attorney's victim assistance staff, but their willingness to educate themselves about these important mourning customs and facilitate them for victims was critical to providing a sensitive, meaningful response.

> *When it comes to hurt and pain, color is not an issue—all our blood is red. However, how we respond to trauma is very different. In the black community, our support has always been the church and the family. But these support networks are breaking down. Without that, victims have fewer resources in helping themselves heal. We must work to bring all the available resources to us and work to create others based on this great need.*
>
> Clementine Barfield,
> Survivor of homicide,
> founder and president,
> Save Our Sons
> and Daughters,
> Detroit, Michigan

All of those who interact with crime victims must be educated about cultural differences to understand the responses and needs of victims. There is a compelling need for more victim service providers who share and/or can understand the ethnic histories, people, culture, and language of the victims they serve. In addition, there are many other avenues that can be pursued to meet the needs of diverse victims. They include intensive outreach programs to seek minority volunteers, referrals to social/legal service organizations that serve diverse populations, instituting culturally sensitive protocols, and providing clients with on-call translators.

In summary, developing a diverse cultural response to victims' needs involves a multifaceted effort. First, services and information must be provided in appropriate languages. Second, there must be an acknowledgment of the different and valid cultural definitions of personal well-being and recovery from traumatic events. Third, there must be support of the sophisticated and varied cultural pathways to mental health and incorporation of these practices into appropriate victim services and referrals. Fourth, extensive cultural awareness training must be undertaken to enable victim assistance staff to understand persons whose thinking, behavior, and expressive modes are culturally different.

Meeting the Needs of Victims with Disabilities

There are approximately 43 million individuals with disabilities in the United States, many of whom are at high risk of becoming victims of crime because of difficulties in communicating or their limited mobility.[4] This is especially true for those suffering from developmental or severe disabilities, who are often victimized by their own caretakers, making them extremely fearful of retaliation if they report the crime. With several notable exceptions, few victim assistance programs are designed to meet the needs of the disabled.

- In 1986, Marilyn Smith founded Abused Deaf Women's Advocacy Services (ADWAS) in Seattle, Washington. The program offers a 24-hour crisis hotline, counseling, and legal advocacy for deaf and deaf-blind victims of sexual assault and domestic abuse. Many staff members and volunteers are deaf or hard-of-hearing individuals who offer a special sensitivity to the needs of deaf victims. The program has developed training for both deaf and hearing crime victim advocates and has published educational materials specifically for deaf adult and youth victims. Ms. Smith, who is deaf, started ADWAS in response to her own experiences after having been raped. At the time, no services existed for deaf crime victims, making her journey through existing services difficult, and her recovery needlessly long and lonely. ADWAS recently received funding from the Office for Victims of Crime to help replicate this program in 5 cities across the country.

- Several years ago, staff at the Children's Hospital and Health Center in San Diego, California were concerned that the hospital received few referrals concerning sexually abused youth with disabilities. Their inquiry into this issue culminated in the creation of the Hospital's Center for Child Protection, which offers specialized forensic assessment and treatment of developmentally disabled victims of sexual assault. The center offers counseling and treatment to approximately 1,200 children a year, with routine referrals of victims with disabilities. In addition, the center offers a 4-week course, developed with the state office of Criminal Justice Planning and the Family Protection Unit of the District Attorney's Office, to children who are scheduled to testify in court. The center produced training materials to help other medical providers assist victims with disabilities, and all center staff are trained to work with developmentally disabled victims.

A 'true pioneer'—a deaf woman in a hearing world, fighting for and winning equality and accessible services for deaf victims.

Attorney General Janet Reno
honoring Marilyn Smith,
National Crime
Victims' Rights Week, 1996

- The Midwest Leadership Through Education and Advocacy for the Deaf (LEAD) in Missouri provides people who are deaf and hard of hearing with comprehensive support and leadership through education and research. With support from VOCA, the Midwest LEAD Institute (MLI) provides culturally and linguistically appropriate services to deaf victims of domestic violence. The goals of the project are to reduce the severity of psychological and emotional trauma that result from abuse, provide support for deaf victims in coping with the impact of abuse, provide crisis intervention for deaf victims of domestic violence, develop a pool of volunteer sign language interpreters for shelters and agencies, and establish a 24-hour crisis hotline for deaf victims of violent crime. In collaboration with the Missouri Coalition Against Domestic Violence, MLI provides training and materials to shelters and agencies throughout the state.

Services for victims with disabilities were largely overlooked on the national level until the passage of the Americans with Disabilities Act (ADA) of 1990,[5] which required states and organizations receiving public funding to make their services accessible to all. Several efforts have since been undertaken to provide information to state and local criminal justice agencies and victim assistance programs on achieving compliance with the ADA's requirements. There is a paucity of research on the rate of victimization of people with disabilities, however. In addition, more information is needed regarding model intervention services and appropriate criminal justice responses to victims with disabilities such as improving reporting rates, making interview techniques more sensitive, and exploring alternative avenues for victim participation. Such efforts should be expanded, and all victim assistance programs should examine how they can make their services accessible and responsive to the needs of the disabled.

The Office for Victims of Crime (OVC) has undertaken a number of projects in recent years to begin to address this issue. For example, though a grant to NOVA, OVC sponsored a transfer of knowledge symposium in 1998 on the topic of assisting crime victims with physical and developmental disabilities. The 35 experts from the fields of disability rights, victim assistance, and criminal justice who attended the symposium developed recommendations and an action plan to improve the capacity and preparedness of victim service providers and allied professionals to respond effectively to the unique needs of crime victims with disabilities. Curriculum development and other national training efforts have also been initiated by OVC.

People with developmental and other severe disabilities suffer violent crime at an alarming rate. Yet there is little written or, more importantly, done about it. This is not an abstract problem of trends and statistics, but a brutal reality in the lives of the human beings who are victims of these crimes.

Daniel D. Sorensen,
Chair of the Victims
of Crime Committee,
Criminal Justice Task
Force for People with
Developmental Disabilities,
Sacramento, California

Responding to Specific Victim Populations

At the same time the victim assistance field is confronting global issues such as securing a community wide continuum of services and ensuring the accessibility and responsiveness of all services to diverse cultures and the disabled, it also faces the challenge of meeting very particularized needs of discrete victim populations.

Cited throughout *New Directions* are many reports that have been written regarding the special needs of certain victim populations. While OVC has supported many of these products, other Justice Department divisions have supported research and promising practices as well. For example, the Bureau of Justice Assistance (BJA) recently published: *A Policymakers Guide to Hate Crime; The Criminal Justice Response to Rape; The Project to Develop a Model Anti-Stalking Code for the States: A Final Summary Report;* and the *Regional Seminar Series on Developing Antistalking Codes.* These monographs provide indepth information about how to establish policies and laws that address hate crimes, sexual assault, and stalking. The National Institute of Justice (NIJ) has published many reports about "promising practices" in responding to domestic violence. One recent report entitled *Domestic Violence, Stalking, and Antistalking Legislation* discusses important interventions for domestic violence and stalking, including community policing, arrest and protection orders, collaborative court approaches, and other multidisciplinary techniques, as well as threat assessment procedures.

The sections that follow do not attempt to address all of the issues and concerns related to diverse victim populations, but rather briefly highlight background information and a few major topics. These crime victim population groups include victims of domestic violence, sexual assault, survivors of homicide, elderly victims of crime, victims of drunk driving crashes, stalking, and gang violence, hate and bias crimes, and victims of white collar crime/fraud and bank robbery.

It is important to note that every section of this report provides information and recommendations regarding these and other victim populations.

Victims of Domestic Violence

Domestic violence has been called a "hidden crime" because until the recent past it was often not reported by the victim or treated as criminal behavior by the justice system. The 1982 President's Task Force on Victims of Crime recognized the lack of serious attention given to victims of domestic violence, stating in its report that "the cries of family violence victims can no longer go unheeded."[6] Since that time, significant changes have occurred in the nation's response to domestic violence.

The Model Domestic Violence Code was drafted through the National Council of Juvenile and Family and Court Judges and introduced to the National Conference of State Legislatures in 1994.[7] It has been enacted in whole, or in part, in some jurisdictions. Its key provisions seek to upgrade interventions and limit discretion of individuals within the criminal justice system to make the system more responsive to the safety needs of victims. The code requires mandatory arrest, mandatory no-contact orders, restrictions on home detention and deferred prosecutions for batterers, restrictions on plea bargaining domestic violence cases, and standards for certification of domestic violence treatment programs.

Passage of the Violence Against Women Act (VAWA) of 1994 secured additional federal funding for domestic violence programs and a new base of funding for criminal justice interventions and important research to address violence against women. Programs under VAWA are managed by the Violence Against Women Grants Office of the U.S. Department of Justice.[8] The Act also established federal criminal and civil remedies for battered women and created protections for immigrant women who are battered. Additionally, VAWA supported the creation of the National Domestic Violence Hotline in 1996 to provide crisis intervention information and assistance to victims of domestic violence. In its first year of operation, the hotline responded to more than 73,000 calls for assistance from around the country.

Model domestic violence programs for all sectors of the justice system and for allied professionals are described throughout this report.

Let us focus on family violence and understand that the child who sees his father hit his mother is going to accept violence as a way of life. And let us understand that family violence in all forms is an epidemic in this nation and should not be tolerated.

Attorney General Janet Reno

National Coalition Against Domestic Violence

Founded 1978

The National Coalition Against Domestic Violence (NCADV) represents more than 2,000 grassroots programs and shelters serving battered women and their children in rural and urban areas throughout the United States. NCADV opposes the use of violence as a means of control over others, and supports equality in relationships and strategies for helping women assume power over their own lives. NCADV also works to educate the public about domestic violence and supports state legislation that appropriately sanctions offenders.

National Network to End Domestic Violence

Founded 1990

The National Network to End Domestic Violence (NNEDV) is a membership and advocacy organization of state domestic violence coalitions. NNEDV began as the Domestic Violence Coalition on Public Policy in 1990, and was instrumental in developing policy that became part of the landmark Violence Against Women Act of 1994. Its mission is to ensure that national public policy is responsive to the concerns and interests of battered women and their children; to strengthen the development of and relationships among domestic violence coalitions, which provide services, community education, and technical assistance to programs establishing shelter and related services to battered women and their children; and to educate the general public about issues concerning domestic violence.

> *We have made much progress, but we still have far to go if women and children are to be kept safe in America. Only by committing further resources and making the protection of women and children a priority can we hope to correct the injustices women still face at the hands of the criminal justice system.*
>
> Joan Zorza,
> Editor, Domestic
> Violence Report

A network of more than 2,000 programs has been established to support domestic violence victims. In addition, many domestic violence programs have recently expanded their services to meet the special needs of elderly battered victims, and children who witness violence in their homes.

- The Minnesota Coalition for Battered Women uses coalition building as an effective tool for dealing with older battered women. Since older women seldom use shelters, many service providers in Minnesota began providing hotel rooms and private "safe homes" for older battered women. As a result of making these alternatives available, service providers are now seeing larger numbers of these victims coming forward to seek assistance and support. The Coalition reports that as the number of older women on staff increased, the number of older battered women clients also increased.

- Advocacy for Women and Kids in Emergencies (AWAKE) is an innovative program that offers advocacy and support to abused mothers at the same time that the hospital provides services for their children. Begun with a VOCA grant at Children's Hospital, Boston, in 1986, AWAKE was the first program in the nation in a pediatric setting providing dual advocacy for both battered women and their abused children. AWAKE believes that by providing help to battered women in conjunction with clinical services to children, both populations are more effectively served.

Victims of Sexual Assault

The true magnitude of sexual violence in the United States is difficult to ascertain. Official law enforcement statistics in the annual Uniform Crime Report are based on forcible rapes reported to the police.[9] In 1992, the National Crime Victimization Survey—designed to elicit crime information not reported to law enforcement—was redesigned to include more specific questions concerning sexual assault. According to data from the National Crime Victimization Survey, over 300,000 rapes and sexual assaults were reported in 1996.[10] Moreover, another 100,000 attempted rapes were reported during the same period.[11]

Research has shown that 69 percent of rape victims fear being blamed for the rape,[14] and that if they knew their attacker, they were six times less likely to report.[15] According to the Department of Justice, Bureau of Justice Statistics, females are ten times more likely than males to be victimized, and females face the highest risk of sexual assault.[16]

When compared, the two national sources of statistical data show a difference between reported and unreported sexual crimes. Victimization research underscores the fact that a large majority of rape victims do not come forward and report to law enforcement.[12] The reasons are many: the stigma surrounding sexual crimes, victim fear of those that they are close to finding out and blaming them, and victim intimidation and a distrust of the criminal justice system.[13]

Initiatives to assist victims of sexual assault are described throughout this report. Over 2,000 rape crisis centers have been established nationwide. These local programs and the state coalitions and national organizations that they are affiliated with have worked to coordinate the responses of medical providers and criminal justice agencies and to protect sexual assault victims' privacy through statute and policies adopted by criminal justice agencies, as well as some media organizations.

Much of the change in the criminal justice system's response to sexual assault victims has been prompted by the passage of laws. Rape shield laws now prevent the sexual history of the victim from being put on trial, and legislation has changed the very definition of sexual assault, making the crime gender neutral, acknowledging that it can occur within marriages, and expanding the definition to include all forms of sexual violence.[17] Specialized sex crime units now operate in many large law enforcement and prosecutorial agencies. The *Final Report* of the President's Task Force recommended training for criminal justice officials on sexual assault and such training has been conducted widely.[18]

National Coalition Against Sexual Assault

Founded 1978

National Coalition Against Sexual Assault (NCASA) is a membership organization committed to the prevention of sexual violence through intervention, education, advocacy, and public policy. NCASA promotes and advocates a national course of action based on the sexual assault victim/survivor's perspective and works toward the empowerment of all victims and survivors: children and adults, women and men. Major NCASA initiatives include hosting an annual National Conference and Women of Color Institute as well as producing resources for National Sexual Assault Awareness Month in April.

Rape, Abuse & Incest National Network

Founded 1994

The Rape, Abuse & Incest National Network (RAINN) is a nonprofit organization that operates the only national toll-free hotline for survivors of sexual assault. Founded in 1994 by singing artist Tori Amos, a survivor of sexual assault herself, RAINN provides hotline access to trained counselors 24 hours a day from anywhere in the country. Calls are automatically routed to local rape crisis centers, expanding the outreach and service of these centers. In just three years of operation, RAINN has helped more than 170,000 victims of sexual assault.

> *The [victim advocate] helped me to heal, to feel that I had value again. He saved my life.*
>
> A sexual assault victim

Protocols for coordination between medical providers and criminal justice agencies in sexual assault cases have been developed and implemented in many communities. The development of a standardized rape examination kit to improve medical practices in identifying and gathering evidence was one of the *Final Report's* key recommendations for sexual assault victims. The Office for Victims of Crime sponsored the development of such a kit in the 1980s, but not all states have adopted the national model. And while medical protocols may exist, they are not always followed. In a study of rape victims who sought medical treatment, a significant percentage of victims did not receive pregnancy testing or information on HIV or STD exposure.[19] However, a major step forward was made in 1995, when the American Medical Association published comprehensive guidelines for physicians to communicate with and treat sexual assault victims.[20]

A new approach to medical intervention for sexual assault victims utilizes sexual assault nurse examiners (SANE) as the primary medical examiner.[21] Operating under the direct supervision of a physician, a specially trained nurse takes the victim's medical history, conducts the examination, and implements comprehensive aftercare plans including referrals for counseling and financial assistance.

Privacy remains a critical concern of victims of sexual assault, and a primary factor in non-reporting. Several states have enacted privacy protection laws to prevent the name, address, or other identifying information about rape victims to be made public. In addition, many law enforcement agencies have adopted policies to exclude such information before the release of police reports to the media.[22] Regardless, several high-profile rape cases in the 1990s proved that *ultimately* protection of victim privacy rests with internal policies of the media.

Because the overwhelming majority of sexual crimes are committed by intimates and against youth, programs are increasingly targeting funding and efforts to assist younger victims of sexual assault. In New York City, the Youth Empowerment Association trains teenagers recovering from sexual assault to work as peer counselors with youth who are at earlier stages of recovery. Victims have also played a large role in establishing and staffing rape crisis centers.[23]

Survivors of Homicide

The senseless loss of life through murder—the ultimate violation—touched the family, friends, schoolmates, and coworkers of nearly 20,000 victims in 1996.[24] Murder may occur as a final, violent act after many years of escalating spousal, elder, or child abuse. It may be used as a solution to gang-related hostilities, or to silence a robbery or sexual assault victim. Homicide can kill dozens of victims through one terrorist act or a series of victims by one serial killer. As a direct consequence of drinking and driving, an additional nearly 18,000 lives are lost each year. This is addressed later in this section.

Early victims' rights laws did not recognize surviving family members of homicide victims, extending rights to the "primary" or "direct" victim and not to co-victims or survivors of homicide. Throughout the 1980s, victims' rights laws were enacted and amended to recognize survivors as true victims who should be extended all victims' rights. Betty Jane Spencer testified in front of the 1982 President's Task Force. In 1978 her four sons were shot and killed in an execution-style massacre in their rural Indiana home. Betty Jane was wounded but survived. Looking back on that tragedy she said, "I was killed too. I just didn't die."

Many outstanding programs have been developed to provide support and advocacy for survivors of homicide, including support groups created by survivors.

> *What is homicide? The accepted definition is the intentional, non-negligent killing of one human being by another. The family of a murder victim has a different definition: the blackest hell accompanied by a pain so intense that even breathing becomes an unendurable labor.*
>
> Deborah Spungen,
> Founder and Special
> Projects Director,
> Anti-Violence Partnership
> of Philadelphia,
> Philadelphia, Pennsylvania

- The Stephanie Roper Committee was created by Roberta and Vince Roper in 1982 following the brutal murder of their daughter Stephanie. The Ropers were astounded at the way they were treated by the criminal justice system. They not only were not allowed to attend the trial but discovered that the two convicted killers would be eligible for parole in 12 years. The Ropers turned their frustration and outrage into activism and created one of the most successful victim activism programs nationwide. With the help of many volunteers, the organization has lobbied for legislative reforms to protect victims' rights and increase services in Maryland. In addition, they operate a Court-watch program that places volunteers, many of whom are victims, in courtrooms to monitor whether victims' rights are respected.
- Save Our Sons and Daughters (SOSAD) is a nonprofit grassroots organization founded in 1987 by Clementine Barfield, who lost two sons to violence in her community. She joined other parents of slain children to create positive alternatives to violence throughout the community. SOSAD provides counseling and training in violence prevention, crisis intervention, multicultural conflict resolution, gang redirection, and peer and bereavement support.
- Other support groups such as Loved Ones of Homicide Victims in Los Angeles and the Tender Loving Care organization in Dallas work to decrease crime victims' sense of isolation, offer support and understanding, and provide practical information and advice. Victim Services in New York City has formed a choir of children who have had a family member killed.
- The Anti-Violence Partnership of Philadelphia has developed, with OVC funding, a multidisciplinary training curriculum to foster more consistency in services for survivors of homicide victims. The curriculum, called "Traumatic Grief: The Synergism of Trauma and Grief," addresses the unique psychological and emotional impact of homicide on survivors and presents a new approach to assisting them.

> *America still has far too great a tolerance for murder. Cocktail parties don't feature games like 'guess who the rapist is' or 'host a robbery,' yet 'host a murder' parties have become common social fixtures. If Americans had an understanding of the consequences of homicide, perhaps we simply would not tolerate our culture's playing with murder.*
>
> Nancy Ruhe Munch,
> Executive Director,
> Parents of Murdered
> Children, Inc.

Parents of Murdered Children *Founded 1978*

Parents of Murdered Children (POMC) was founded by Charlotte and Bob Hullinger in 1978 after the murder of their daughter Lisa. POMC has grown from a single self-help group in Cincinnati, Ohio, to a network of more than 200 local chapters serving 38,000 survivors each year. POMC's goal is to allow the grief of family members to be shared with others who have been through similar experiences, thereby breaking down the isolation that many families face.

Elderly Victims of Crime

While the elderly are less likely to become victims of crime than any other age group, their fear of crime is the highest among all populations and they are more likely to suffer serious consequences when they are victimized. Elderly victims of fraud and other financial schemes often lose financial independence. The impact of physical violence is greater because serious injuries can become life altering disabilities. Older Americans experience a wide range of crimes perpetrated by strangers, family members, paid and unpaid caregivers, and acquaintances. Crimes against the elderly occur not only in public places and their homes, but in nursing homes and residential care facilities as well.

One of the most grievous forms of elderly victimization is by someone the elderly victim knows or depends on for care. Between 1986 and 1994, reports of domestic elder abuse nationwide more than doubled, from 117,000 to 241,000 per year.[25] While the elderly are the most likely age group to report crimes, they are less likely to report crime committed by family members and spouses. Many experts believe that only 1 in 14 incidents of domestic elder abuse comes to the attention of the authorities.[26] According to the U.S. House of Representatives Select Committee on Aging, when these hidden crimes are considered, the actual abuse rates of the elderly rises to 1 to 2 million incidents each year.[27] Adult children are the most frequent abusers of the elderly in domestic settings. For example, adult children were the abusers in 35 percent of substantiated cases of elder abuse in 1994.[28] Other relatives were the second most frequent abusers of the elderly with 13.5 percent of cases, and spouse abuse contributed 13.4 percent.[29] Each year in the United States, more than 700,000 women over the age of 50 are hit by their husbands.[30] The Administration on Aging in the U.S. Department of Health and Human Services is funding several model projects to help domestic violence shelters develop services for women 50 years and older.

Elders are especially at risk of becoming victims of economic scams and fraud. Con artists target the elderly with get-rich schemes, home improvement scams, and investment fraud. The House Select Committee on Aging found that the victim in 99 percent of home improvement scams was elderly.[31] Telemarketing fraud has also become a growing threat against the elderly. Of the $40 billion lost each year from telemarketing crimes, 37 percent is swindled from the elderly.[32]

Significant responses to elder abuse and victimization have occurred over the past two decades. Over 42 states have elder abuse reporting laws which, at minimum, require health care professionals to report suspected elderly abuse to a designated state agency, usually Adult Protective Services.[33] However, the effectiveness of these laws are

John, an 85 year-old retired construction worker was fishing when he was approached by two teenagers demanding money. When he did not hand over any money one of the teenagers produced a shotgun and discharged a single blast into the fisherman's neck, killing him. A neighbor said: "He went fishing everyday. He went fishing on the coldest days of winter." The neighbor said she saw John's wife that day, she was standing at the door, waitng for her husband to walk up the street in his fishing gear.

Janet Loflin Lee,
Responding to Elderly
Crime Victims,
1995

being reassessed. Research is showing that in the absence of essential community services, mandatory reporting can create trauma for the abused elder without resolving the underlying abuse problem. Moreover, a common outcome of intervention is to institutionalize elders against their will.[34] The extent of abuse against the elderly occurring within institutional settings such as medical, long-term care, and board-and-care facilities is difficult to determine. In one study, more than 36 percent of care providers in institutional facilities had witnessed at least one incident of physical abuse by other staff and four in five (81%) had witnessed an incident of psychological abuse.[35]

Communities have taken a variety of approaches in responding to elderly victimization. Triad, the unique partnership between the International Association of Chiefs of Police, the Sheriffs Association, and the American Association of Retired Persons, assists elder victims of crime and fosters a variety of crime prevention activities. The Triad program is discussed in greater detail in Section II, Chapter 2, Law Enforcement. In addition:

- Isolated elders are being identified by a remarkable program called TIES (Teamwork Insuring Elder Support) that is active in more than 200 communities nationwide.[36] TIES trains individuals who come into contact with the elderly, such as bank tellers, postal carriers, and sanitation workers, to call an emergency hotline when they suspect something is wrong. TIES workers have assisted elders who have fallen unconscious, intervened in elder abuse cases, and linked elders in need of medical, emotional, or financial assistance with free services.[37]

- Gatekeeper programs train employees who interact with the elderly in their homes to identify elder abuse and refer elderly victims to agencies that can intervene. The employees include utility service and repair employees and mail carriers. In Billings, Montana, a senior outreach program entitled GEARS: Gatekeepers Elder Assistance Referral System trains public and private employees to make referrals to adult protective services. After GEARS was started, elder abuse referrals in Billings increased by 16 percent.[38]

Victims of Drunk Driving Crashes

There are more arrests every day for drunk driving than for any other crime. Although drunk driving fatalities have decreased 40 percent in the past two decades, from 28,000 in 1980 to 17,126 in 1996, this crime is still a leading criminal cause of death and is responsible for approximately 3.5 million injuries each year, which cost an estimated $45 billion a year to treat.[39] The cost of loss in quality of life is estimated to be an additional $67 billion.[40] Although the deaths and injuries resulting from drunk driving are well documented, drunk driving is still not considered a violent crime. Victims of drunk driving crashes were until relatively recently not even considered to be victims of crimes, and their needs and rights to participate in the criminal justice process were often ignored. Changes in public understanding of and response to the crime of drunk driving can largely be credited to the extraordinary work of grassroots groups such as Mothers Against Drunk Driving (MADD), Remove Intoxicated Drivers (RID), and Students Against Drunk Driving (SADD). Their efforts helped create momentum for the passage of more than 1,700 pieces of driving under the influence (DUI) legislation between 1982 and 1993,[41] as well as the establishment of programs that respond to the needs of this underserved victim population.

Mothers Against Drunk Driving *Founded 1980*

Mothers Against Drunk Driving (MADD) was started by two mothers whose daughters were victimized by drunk driving. One was killed and the other became the country's youngest paraplegic. MADD's mission is to stop drunk driving and support victims of this violent crime. Each of the more than 500 MADD chapters across the country have at least one trained advocate who provides emotional support through one-on-one advocacy and support groups, guidance through the criminal justice system, and assistance with victim impact statements and compensation applications. MADD operates numerous education and prevention programs for children and adults of all ages and advocates for better public policy. The organization publishes a wide array of victim brochures and offers information and assistance through a 24-hour hotline.

> *It is appalling to tell someone with catastrophic injury or the parent of a child killed by a drunk driver that what happened to them is not considered a violent crime.*
>
> Janice Harris Lord, Consultant for Crime Victims' Issues, Mothers Against Drunk Driving

Survivors of drunk driving have, through MADD, also developed death notification trainings and protocols for those who must carry the wrenching news of the death of a loved one to family members or friends. MADD has developed a series of 4 death notification training manuals targeting the professions of law enforcement, mental health counselors and victim advocates, medical personnel, and clergy and funeral directors. Each manual outlines procedures to follow when notifying someone of the death of a loved one, and includes information on debriefing those who must perform this task, as well as sample resource materials to use.

Advocates against drunk driving, many of whom are victims or survivors of drunk driving crashes, continue to focus their energies on prevention efforts and legislative reforms, and have made tremendous impact in this area.[42] Legislative changes, including establishing the 21-year minimum drinking age, have been singularly effective in reducing the incidence or severity of drunk driving.

Victims of Stalking

Stalking is a distinctive form of criminal activity composed of a series of actions that, taken individually, might constitute legal behavior. For example, actions such as writing a letter, placing a telephone call, or waiting for someone outside their place of work are not criminal actions. When these actions are intended to instill fear or injury, however, they may constitute a pattern of behavior that is illegal.[43] Although every stalking case is unique, over time a stalker's behavior becomes more threatening, serious, and violent. Stalking activity often escalates from what was initially bothersome to a level that is obsessive, dangerous, violent, and potentially fatal.

Stalking is a complex social problem that has only recently been addressed in our nation's criminal codes. Until 1990, no states had laws making stalking illegal. That year, California enacted the first anti-stalking law, leading to the passage, in just over 4 years, of laws in the 49 other states and the District of Columbia.[44] Prior to the passage of these laws, police and prosecutors felt limited in their efforts to assist victims threatened by a stalker because there were no applicable laws to protect a person until the perpetrator actually committed an act of harm. Today, law enforcement officials can use anti-stalking statutes to help determine whether an arrest should be made and to assess the level of threats involved in such cases.

In 1993, Congress directed the U.S. Department of Justice's National Institute of Justice to develop a model anti-stalking code to provide a constitutional and enforceable legal framework for states to use in formulating their anti-stalking laws.[45] NIJ asked a group of nationally recognized criminal justice and victims' rights experts to develop a model anti-stalking code. The code, as reported in the final report of the ***Project To Develop a Model Anti-Stalking Code for States,*** encourages legislators to make stalking a felony offense, to establish penalties for stalking that reflect and are commensurate with the seriousness of the crime, and to provide criminal justice officials with the authority and legal tools to arrest, prosecute, and sentence stalkers.[46] In the 3 years since the code's release, 17 states have amended their stalking laws.

Making stalking illegal is only the first step in addressing this crime. The objective in any response to a report of stalking is to intervene before the victim is injured or killed. For communities to respond effectively, a coordinated, multi-agency strategy is essential. Any multiagency response to stalking must include law enforcement, prosecutors, judges, community and institutional corrections, victim assistance, and social service agencies.

> *Although stalking has entered the public consciousness through some highly publicized cases, stalking affects many people every day, crossing all racial, social, religious, ethnic, and economic lines. We know that stalking is a crime of terror, power, and control. But we do not always know how to prevent or respond to this complex crime. To meet the challenge of formulating an effective criminal justice strategy for combating stalking, we must increase our knowledge about stalkers, intervention techniques, prevention efforts, and law enforcement policies and practice.*
>
> Bonnie J. Campbell,
> Director, Violence
> Against Women Office
> U.S. Department
> of Justice

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Victims of Gang Violence

Over the past decade the proliferation of gang violence in the United States has received considerable attention from criminal justice professionals concerned about the rising tide of gang violence. Gang violence affects medical professionals who respond to the flood of critical injuries associated with gang-related violence and entire communities whose residents are deeply concerned. While much discussion and effort have focused on the prevention, intervention, and suppression of gang violence, too little attention has been paid to those who are most affected by its tragic impact—the victims of gang violence.

Often lost within the system and sometimes blamed for gang-related crimes for which they hold no responsibility, victims of gang violence frequently receive limited support and experience significant barriers to justice and healing. Their social, cultural, and systemic alienation produces fear, anger, frustration, and confusion when they are brutally injured by, caught in the crossfire of, or lose a loved one to gang violence.

> *Through these years I have gotten 13 restraining orders. I have changed my name and I have moved out of state several times. We have had to leave friends, family, stability behind so many times. I live looking behind me in fear . . .*
>
> A domestic violence and stalking victim

Working on the frontlines of victim and witness assistance in areas confronting gang-related violence, the following programs provide compelling examples of programs that appear to be working and could be replicated in other communities:

- The California-based Teens on Target (TNT) trains at-risk youth and young victims to be anti-violence advocates. Using their firsthand experiences, these advocates talk to their peers about the causes of violence and suggest alternatives for resolving conflict. In a new TNT project, Caught in the Crossfire, advocates visit young gunshot victims who are still hospitalized to dissuade them from seeking revenge.
- The Tariq Khamisa Foundation, in San Diego, California, was founded by Azim Khamisa after the murder of his 20-year-old son, Tariq, by four teenage gang members. Tariq's father joined with the grandfather of the 14-year-old gang member who shot Tariq to form the Foundation, which is dedicated to preventing similar crimes through educational programs in schools. With funding from OVC, the Foundation is developing a video to assist students in learning about gang violence and its impact, and encourage them to seek alternatives to gangs.

Hate and Bias Crimes

The President's Task Force on Victims of Crime *Final Report* did not address hate and bias crimes. In the intervening years, great progress has been made in identifying, documenting, and prosecuting these crimes. During the 1980s, state legislatures stiffened penalties for acts of hate violence and added other protected classes of victims. Hate crime statutes today not only encompass race, religion, and ethnicity, but include gender, sexual orientation, disability, and persons from foreign nations as well. They vary, however, across the nation. As of 1996, 12 states still have not enacted criminal laws addressing racially motivated crime.[47]

Identifying and meeting the needs of victims of hate crimes has been a particular challenge to the victim assistance field. Until 1990, most jurisdictions did not collect data on the level and incidence of hate crime, making it difficult for advocacy and assistance groups to press for programs to meet the needs of hate crime victims. Since the passage of the Hate Crime Statistics Act in 1990, data on hate crimes have been collected on the national level by the FBI as part of the Uniform Crime Reporting System.[48]

Victims of hate crime continue to be one of the most underserved victim populations. Serious underreporting, the fear of retribution, and the trauma of dealing with prejudice and violence present victim service providers and allied professionals with great challenges of equity and access to all victims of these heinous crimes.

Karen McLaughlin,
Senior Policy Analyst,
Education Development Center,
Newton, Massachusetts

In spite of this progress, the scope of hate and bias crimes in the United States is still relatively unknown because of the lack of comprehensive data from every jurisdiction in every state. Definitions of what constitutes a hate and bias crime and who constitute protected categories of victims vary across the states. States are not mandated to comply with the Hate Crime Statistics Act, and 8 states failed to collect hate crime statistics in 1996.[49] Improved data collection is imperative because hate and bias crimes are underreported and their victims continue to be seriously underserved.

Hate and bias crimes can affect the entire community in which they occur. To be effective, victim assistance programs must meet the needs of individual victims and at the same time explore ways to help the community to heal. The recent church burnings are an example of the devastation that a single bias-motivated crime can have upon a community.

In June 1996, President Clinton formed the National Church Arson Task Force to address a sharp rise in the number of fires at churches and other houses of worship across the nation. Of particular concern was the large number of reported fires at African-American churches in the South in the mid-1990s. Federal and state criminal charges involving allegations of racial motivation have been brought in connection with 24 church burnings.[50] In October 1997, the South Carolina Burned Church Coalition sponsored a retreat for 200 children whose churches had burned to discuss how to cope with hate and bias crimes.

A number of states and local communities have developed hate and bias crime task forces and commissions to enhance coordination among agencies, recommend legislation, foster education programs, and develop programs for public awareness and prevention. New York, New Jersey, California, Maryland, Massachusetts, and Minnesota have established such commissions.

Further, special victim assistance programs have been created in law enforcement agencies, prosecutor offices, courts, and community-based agencies to deal with the broad range of bias crime victims. Many state attorneys general have civil rights units or bias crime units exclusively dedicated to dealing with bias crime and civil rights violations. Special bias crime units also exist in many large city police departments. At the state level, the New Jersey Attorney General's Office has developed a Bias Crime Unit that staffs a statewide hotline for bias crime victims to report their victimization and seek assistance.

In 1996, OVC and the Bureau of Justice Assistance, a component of the Office of Justice Programs in the Department of Justice, supported the creation of a training curriculum on responding to hate and bias crimes for law enforcement and victim assistance professionals by the Educational Development Center in Boston, Massachusetts. The curriculum, entitled ***National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals,*** emphasizes that while bias crimes are similar to other crimes, they present unique challenges to victim-serving professionals because of their often devastating psychological impact on the victim and the victim's community. The curriculum is available through the OVC Resource Center.

African Americans, who constitute the single largest minority group in the Nation, are more likely to be targets of hate crimes than members of any other group. Of the nearly 8,000 hate crimes reported in 1995, almost 3,000 of them were motivated by bias against African Americans.[51]

According to the Uniform Crime Report, approximately 60 percent of the hate crime incidents reported in 1994 were motivated by racial bias, 18 percent by religious bias, 12 percent by a bias against sexual orientation, and 10 percent by a bias against ethnicity or national origin.[52]

White Collar and Fraud Victims

Victims of white collar crime and fraud suffer severe psychological and financial harm, and they require assistance and intervention that takes into account their particular needs and the unusually complex nature of their cases.

Victims of white collar and fraud crimes include individuals as well as small and large institutions. Examples of these types of crimes include mail fraud, bankruptcy fraud, wire fraud, computer fraud, health care and insurance fraud, pension and trust fund fraud, mail theft resulting in check washing, credit card fraud, embezzlement, security fraud, commodities fraud, cellular phone fraud, antitrust fraud, telemarketing fraud, and advance fee schemes.

White collar and crimes of fraud cases are often very complex, with many victims (sometimes numbering in the hundreds) residing over a wide geographical area. Automated systems can help relieve some of the burden on victim assistance personnel to notify these multiple-victim groups of their rights, restitution awards, and other services. However, in light of the resource shortages many victim assistance programs face, it is especially important for agencies to develop interagency, cross-district collaborations to reach these victims. Victims often need immediate information. Brochures should be provided to victims by investigators responding to a crime, and they should include information on local, regional, and national resources.

The white collar crime victim population tends not to seek support for mental health or psychological problems they are suffering from as a result of their victimization. When they do, it is usually through a counselor covered by private insurance or a religious advisor. Victim service providers must reach out to white collar crime victims to assist them in developing their own support groups or accessing appropriate emotional support from trained professionals.

- In 1996, OVC funded a federal demonstration project on white collar crime victimization at the U.S. Attorney's Office for the Northern District of California. The goal of this San Francisco-based project is to enhance the capability of the Northern District to respond to the needs of federal victims of white collar crime and financial fraud, including telemarketing, health care fraud, investment, and mail and wire fraud. The project includes hiring two Asset Investigative Advocates to assist prosecutors and investigators in the identification and recovery of assets that can be returned to victims via restitution or other mechanisms. The project also includes developing internal guidelines and a training manual for providing comprehensive services to victims of white collar crime.

Bank Robbery Victims

Victims of bank robbery can include bank customers, bank employees (tellers, managers, and security guards), law enforcement officers, and other members of the banking community. According to the Federal Bureau of Investigation, just over 7,000 bank robberies were committed in 1994, with losses totaling more than $58 million.[53] In almost half of the robberies, a weapon was threatened against the bank employees.[54]

A common reaction by the largest group affected by bank robberies—the tellers—is a tremendous amount of self-blame. Many bank tellers in the aftermath of a bank robbery feel that they should have been able to do something to stop the crime. While bank robbery is not generally considered a personal crime but a crime against the bank, most tellers take it very personally. When robberies become violent, tellers are injured, taken hostage, and killed. Moreover, tellers must return to the scene of the crime, their place of employment, to keep their job. In light of the trauma they have suffered, this is understandably difficult for many tellers.

U.S. Attorneys' offices have developed a variety of useful approaches to deal with victims of bank robbery.

- The Victim-Witness Coordinator in the U.S. Attorney's office for the Eastern District of Wisconsin has developed an innovative outreach program for victims of bank robberies, specifically addressing bank employees. The office, with input from bank tellers who have been victims of bank robberies, developed a brochure that provides information about the specific trauma reactions of bank employees and offers advice about how to cope and where to go for assistance. In addition, after a robbery occurs, a trained crisis response professional goes immediately to the scene to debrief customers, tellers, and staff, and then follows up with visits to the victims to ensure that they have access to counseling and victim services. The Victim-Witness staff of the U.S. Attorney's office host workshops and support groups for victim tellers as part of the program, which law enforcement officers attend to give case updates, and an Assistant U.S. Attorney is present to answer any questions the tellers have about the court process. With support from OVC, the U.S. Attorney's office has also developed a video for victims called "After the Robbery: From Crisis to Resolution."

Enhancing Victim Assistance Services

The victim assistance field has expanded considerably since the *Final Report* of the President's Task Force in 1982. Many victim assistance programs are well established, and a number are institutionalized within the justice system. But in some communities, especially in many rural areas, few victim services are available. Victim assistance providers must explore new ways to ensure that the greatest number of victims receive the highest quality services possible.

Technology increasingly offers new avenues to serve crime victims through the Internet and toll-free telecommunication. In addition, many tools are available, such as needs assessments and surveys, that can help programs target the types of victims that need additional services. Program evaluations also offer an opportunity for victim assistance programs to determine how effective they are in meeting the needs of crime victims. Improving victim services also means establishing program standards, training standards, and a code of ethics for the field. These topics are addressed below.

Needs Assessments

Conducting needs assessments is an important first step in expanding services to underserved crime victims. Needs assessments help identify the problems that victims encounter as a result of their victimization and can determine to what extent these problems are being addressed. For example, the Alameda County, California Prosecuting Attorney's Victim-Witness Assistance Division learned through a needs assessment survey that the recovered stolen property of nearly 30 percent of victims it serves is never returned to them by the courts.

Needs assessments also help victim assistance programs to determine the many barriers that prevent victims from accessing their services. Victim/Witness Services in Milwaukee, Wisconsin, discovered that nearly 45 percent of the victims it surveyed had difficulty finding transportation to the courthouse.

Some states have conducted needs assessments to determine which programs should receive VOCA funding. Pennsylvania required each county to conduct an assessment of the type of victim services needed within its jurisdiction. Counties within the state then used the results of the needs assessment to solicit and evaluate proposals from eligible programs within their own communities. All programs should develop means of assessing needs for additional services and evaluating the efficacy of existing services.

Technology

Technology increasingly offers new avenues for enhancing victim assistance. The Internet offers a powerful vehicle for victim assistance programs to expand their services by providing immediate access to information as well as a means to communicate with large numbers of victims.

- The Brazos County Rape Crisis Center in Bryan, Texas, offers online counseling through its website. To ensure anonymity, the Center uses a secure server—the same type of system banks and companies use for electronic financial transactions. The Center currently serves approximately 100 clients online, including clients who live as far away as Bankok, South Korea, and Australia.[55]

- Victim Services in New York City is exploring the use of the Internet to provide services for crime victims. Victim Services operates two websites, both designed for Internet surfers seeking help. The organization has received inquiries on services from around the country, which it answers via e-mail. When possible, Victim Services provides referrals to local resources and offers encouragement for those taking first steps to continue seeking help.

E-mail is the tip of the iceberg in the capabilities of the Internet and the World Wide Web to provide convenient and interactive help to victims. The Web is an ideal resource, for example, for people for whom receiving help is difficult, such as victims in rural communities who do not have access to a local service provider. Or, a battered woman who works and has access to the Internet and could join a support group online during her lunch break without leaving her office. Victim Services is discussing the kinds of activities that could be provided to victims through a website, including chat rooms, bulletin boards, and secure e-mail to protect the privacy of exchanges with online clients.

Victim Services is examining the potential of online counseling by exploring the issues of confidentiality, interstate jurisdictional issues, and creating a counseling protocol.

In addition, cellular telephone technology can be used to achieve a measure of security to domestic violence victims. Many domestic violence victims fear that they will be attacked and not have a way to call for help. To help these victims, cooperative partnerships have been forged with local criminal justice agencies, sheriffs, police chiefs, state attorneys and local cellular telephone companies to help domestic violence victims by providing them the use of cellular phones.

- In Tallahassee, Florida, the Attorney General's Office launched a statewide initiative to combat domestic violence with cellular telephones in January 1996. Four major cellular telephone companies, AT&T Wireless, Bell South Cellular Corp., Sprint Cellular, and GTE Mobile Net, have endorsed the program and agreed to encourage local cellular affiliates to make free cellular phones available for victims' use. Under the initiative, the State Attorney General's office provides guidance on establishing a cellular phone program to local police chiefs, sheriffs, and state attorneys and helps coordinate efforts to get local programs running.

Experience has proven that perpetrators of domestic violence or stalking will take advantage of a victim's inaccessibility to a phone. It is our hope that a 24-hour, immediate accessibility by telephone to local law enforcement, although not a guarantee against violence, will act as a deterrent to repeated acts of domestic violence.

Norman R. Wolfenger,
State Attorney,
18th Judicial Circuit, Florida

Program Standards

Victim assistance programs need to achieve consistency in the kind of services they offer and in the use of trained staff and volunteers to deliver these services. The importance of instituting standards of services was emphasized in the recently released National Institute of Justice report *Serving Crime Victims and Witnesses.*[56] The publication highlighted the eight basic elements of service standards recommended by the National Organization for Victim Assistance (NOVA). These elements include crisis intervention, counseling and advocacy, support during criminal investigation, support during prosecution and case disposition, support after case disposition, training for allied professionals, violence and substance abuse prevention activities, and public education activities.

NOVA's standards also provide performance guidelines for activities in the areas of planning, management, service, training, and evaluation. The standards serve a twofold purpose of helping new programs to develop realistic standards and helping established programs to better assess their strengths and weaknesses.

Some states have also developed standards of service for crime victims. However, they vary across the nation. New Hampshire, for example, requires that all domestic violence and sexual assault programs meet basic standards in order to qualify for funding. In New

Jersey, the state Attorney General has issued standards for services within county prosecutor's offices. The project was facilitated by the state's centralized prosecution system, in which all prosecutors are part of the Attorney General's office. In Pennsylvania, the state Commission on Crime and Delinquency's Victim Services Program has developed a resource manual that outlines minimum standards for the various victim assistance programs in the state. The Commission encourages these programs to use the manual for self-evaluation and to ensure that they are meeting the minimum standards before they strive for model standards. The standards are also used by the Commission to monitor state-funded programs.[57]

Continuing Education

On the national level, OVC has supported the training of thousands of victim service providers over the past decade. Through its funding of national, regional, and state conferences, approximately 40,000 individuals have been trained in the area of victims' rights and services. Many of OVC's training initiatives for criminal justice and allied professionals, as well as topic specific trainings, are cited throughout this report.

In order to make comprehensive, academic-based training available to a diverse group of victim service providers, including federal, tribal, state and local justice and allied professionals, OVC funded the development of the first National Victim Assistance Academy (NVAA) in 1995. Now in its fourth year, the Academy is coordinated by the Victims' Assistance Legal Organization and a consortium of universities, including California State University-Fresno, the Medical University of South Carolina, the University of New Haven, and Washburn University. NVAA's 45-hour course of study is taught by leaders from the victims' assistance field and the accompanying 600 page Academy Text has been utilized by the field in state and local training programs.

Several states have established minimum training requirements that have raised the professionalism and knowledge of victim advocates, including Florida, Arkansas, South Carolina, Virginia, and New Mexico.

The Attorney General's office in Florida has developed a Victim Services Practitioner Designation Training Program that has been conducted throughout the state for the past 5 years. All programs that receive funding from the office are encouraged to send staff to the training program. Service providers with over 5 years of experience were initially offered a 1-day "grandfather" training on legislative, research, and state guideline developments to qualify for this designation. Arkansas mandates training as a VOCA grant condition. VOCA recipients must receive 24 hours of basic training, 8 hours of administrative training, and 8 hours of continuing education each year.

OVC has a vast constituency of victim advocates, service providers, and allied professionals who look to us to provide cutting-edge training on all aspects of the victim experience and response. To the extent that we can work collaboratively with the national victim organizations and coalitions, private consultants with a wide range of expertise, and State VOCA Administrators to support the delivery of basic, intermediate, and advance training at the local, regional, state, and national levels will determine the quality of service victims of crime will receive today and in the future.

We must also explore ways to further support state and local efforts to establish training institutes which will meet the specific needs of those who are responsible for making victims' rights a reality and providing a standard of care for the millions of people who are victimized each year.

Carolyn A. Hightower
Deputy Director
Office for Victims of Crime

Finally, some states have begun to move in the direction of certifying victim advocates as a means of ensuring a base level of training and knowledge. The California Victim and Witness Coordinating Council established a system of victim advocate certification in 1993 to recognize the professional standing of victim advocates in the state. To be certified as a victim advocate, employees must complete one full year of work in a comprehensive victim services program (as defined by the California Penal Code) and demonstrate through education, experience, and specialized training, the ability to assist victims and witnesses. In addition, the employee must complete a state-approved 40-hour training program within the first year. To be certified as a senior advocate, employees must meet the criteria outlined above and have 5 years of experience as a victim advocate in California.[58]

> *The true measure of the victims' rights movement's success is not in the number of laws passed, constitutions amended, programs started, or funds spent. The test is whether the victims who told the 1982 President's Task Force that they could no longer participate in the criminal justice process because of the insensitive treatment they received would feel that way today.*
>
> Steve Derene, VOCA Program Manager Office of Crime Victims Services Department of Justice, Madison, Wisconsin

Recommendations from the Field for the Victim Assistance Community

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #1

Victim assistance providers should encourage victim involvement in the development and implementation of all programs and services they provide, including public awareness, education, and violence prevention programs.

Crime victims have been the true pioneers in the creation of the victim assistance field and have served as a dedicated force for social change for more than 20 years. Their critical involvement should continue. Many avenues are available to increase victim participation in the development and provision of victims services. Victim assistance programs should actively engage victims in paid and volunteer positions at all levels, from facilitating self-help groups to managing programs.

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #2

Victim assistance programs and services should be designed to reach diverse constituencies. All policymakers, program administrators, and staff should be knowledgeable and skilled in serving diverse cultural and ethnic groups.

The victim assistance field must emphasize cultural sensitivity and awareness in all aspects of services, including in the development, administration, staffing, and funding of victim assistance programs. One of the most overlooked areas of the field has been the development and support of multicultural victim services and cultural diversity among professionals. Advocates should work toward the goal that all victims, regardless of their language or culture, receive a high level of services.

> *A young black male was brutalized, called derogatory names, and left to die in the bushes by three Caucasian gang members. The prosecutor has refused to file charges. There are witnesses who are afraid to come forward because they fear for their own personal safety. This, I feel, is a hate crime conducted in a racist setting where nobody will come forward on behalf of the victim either because of personal racism or fear of personal safety.*
>
> A Victim Advocate

Victim service professionals must be educated in diversity to better understand the victims they serve as well as themselves. Training on cultural competency, hate and bias crimes, and outreach to underserved victims should be conducted for VOCA administrators and victim advocates in community- and criminal justice-based agencies.

Brochures, posters, and other public awareness efforts for non-English speaking victims should be published and distributed by victim assistance programs. Victim assistance programs should have bilingual and bicultural staff to help non English-speaking victims complete compensation claim forms and victim impact statements. Crisis intervention and counseling techniques should incorporate methods of healing that draw upon diverse multicultural grieving and counseling techniques.

Cultural awareness goes beyond printing brochures in other languages, hiring bilingual and bicultural staff, and supporting nontraditional therapies and services. It must also include a commitment to examine underlying cultural differences and work not to assimilate but to respect those differences. Incorporating diversity into all aspects of program development and management increases awareness of the differences that make people who live in America unique, as well as the similarities that bind us together as a community and as a nation.

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #3

Victim service providers should join with criminal and juvenile justice and allied professionals to conduct needs assessments in their communities to identify underserved victim population groups and to determine the types of services that should be available for these groups.

Although great strides have been made in the past decade to provide services to crime victims, many remain overlooked and underserved. These include victims with disabilities, rural or geographically dispersed victims, white collar and property crime victims; victims of hate and bias crimes, and elderly victims of domestic violence and other forms of abuse.

Conducting needs assessments is an important first step in expanding services to underserved crime victims. Needs assessments help victim service programs identify the problems that victims encounter as a result of their victimization and determine to what extent these problems are being addressed. Needs assessments also help victim service programs identify the barriers that prevent underserved victims from accessing their services.

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #4

Victim service providers should work with allied professionals, other victim service providers, and leaders in their community to ensure that a comprehensive network of services and support is available for crime victims.

The goal of providing comprehensive services to crime victims—from the point of victimization through the criminal justice system and beyond—involves responding to victimization on many fronts and with many agencies, individuals, and organizations. One victim assistance program cannot possibly provide all the services necessary for all crime victims. Comprehensive victim assistance means establishing strong partnerships among victim-serving agencies and allied professionals.

In providing a comprehensive network of services and support, victim service providers should be aware of the needs of victims who are victimized in their communities but live in other jurisdictions. There is a need to provide information and referrals for these victims and to develop cross-jurisdictional partnerships to ensure that the interests of these victims are not overlooked.

The Office for Victims of Crime is providing funding for a number of communities to develop a vision for a comprehensive communitywide response to crime victims entitled Victim Services 2000. Over the next decade, these partnerships will serve as models for communities across America in developing comprehensive networks of victim services.

I assisted a domestic violence victim in leaving an abusive situation and received a letter thanking me. In the letter she stated 'I hope that I will be able to get a job as fulfilling as yours. Thank you.' Knowing that she appreciated the work I do and realizing how important that job is to me really made my day. I have her letter on my bulletin board to remind me why I do what I do when days are bad.

A Victim Advocate
Office of State's Attorney
Florida

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #5

Standards for victim assistance should be developed and instituted to guide those who serve victims in community-based programs as well as across all justice systems.

While the number of victim assistance programs has dramatically increased since the time of the President's Task Force on Victims of Crime, insufficient attention has been given to establishing standards for victim assistance. On the national level, the National Organization for Victim Assistance (NOVA) has developed model program standards with support from OVC, but they have not been formally adopted by the victim assistance field.

In addition, Mothers Against Drunk Driving (MADD) requires all chapters to provide a threshold of services and to have at least one advocate who has completed a 40-hour education program. Chapters that do not comply lose their chapter charter from MADD.

In a 1997 survey of VOCA administrators conducted by OVC, several VOCA administrators cited the need for statewide standards for victim assistance, emphasizing that such standards would greatly enhance decisionmaking efforts on program funding and oversight. According to the survey, some states, including Pennsylvania, New Jersey, Wisconsin, and Vermont, have initiated the development of program standards. However, the standards vary. Some address only certain types of victim assistance such as prosecutor-based programs, while others address management issues as well.

Standards that have already been developed in the field should be used as a foundation for developing national or state program standards. States that have already developed standards for victim services should be included in any national discussions on standards.

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #6

Victim assistance providers must receive basic training and annual continuing education on crime victims' rights and services.

To be able to respond effectively to crime victims, service providers need up-to-date, comprehensive training, both before and during their service. According to the National Institute of Justice, training for victim assistance is often "ignored or downplayed, usually because of indifference, lack—or unawareness of—training opportunities, or limited funds, staff, or time." NIJ reports that a 1994 survey of more than 300 victim assistance programs found that nearly half provided neither preservice nor inservice training for either paid staff or volunteers.[50]

Training does not have to be expensive. Literally dozens of training curricula have been developed with support from OVC over the past decade, and many of the training materials including videos, are available free of charge to local victim assistance programs through the OVC Resource Center. OVC also operates a Trainers Bureau, through which victim assistance programs can apply for training and technical assistance from national experts, and supports many local, state, regional, and national training programs.

A number of states, including Florida, Arkansas, South Carolina, Virginia, and New Mexico, have already established minimum training requirements that have raised the professionalism and knowledge of VOCA-funded staff. However, it is clear that the national training and education capacity needs to be expanded so that both experienced and inexperienced victim assistance providers can easily obtain cost-effective education.

While the goals of all of these training strategies should be in service to the entire victim assistance field, not just to programs supported by VOCA, the federal government has a special obligation to ensure the skills and competence of programs it helps to fund and of all victim assistance activities operated by federal agencies.

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #7

A national commission should be established to develop certification and accreditation standards for victim advocacy and assistance.

For the victim assistance field to become a recognized profession, accreditation and certification standards will eventually be necessary. Some states have already begun to move in this direction. After program standards are established, it is imperative that a system of accreditation for both individuals and programs be established at the national or state level, or both. To recognize the range of skills that contribute to successful victim assistance, accreditation efforts need to embrace a wide range of factors that consider experience, education, and competence.[60]

The following methods for certification and accreditation have been used by other professions and should be considered by the victim assistance field as well: preservice and inservice training requirements; continuing education requirements; an "experience" clause that gives credit to years of service; ongoing credit for experience as a substitute or partial substitute for education; education and testing requirements, including observational methods of practitioners at work; licensing examinations; and continued certification contingent upon a designated number of hours of continuing education.

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #8

Victim service providers should increase public awareness of their programs and services.

Increasing public awareness of victimization is critical to ensuring that victims receive the services they need and that victim assistance programs continue to be supported at every level of government. National public awareness campaigns have been undertaken for domestic violence, child abuse, abduction and exploitation, and drunk driving. These campaigns have helped raise the public's awareness about these devastating crimes. National public awareness and education campaigns should be expanded to include other critical victims' issues such as elderly victimization, sexual assault, hate and bias crimes, victims with disabilities, and white collar/fraud. Such campaigns would heighten the public's ability to recognize and report victimization and would provide victims with information they need to seek assistance. Victim assistance programs in every community should help raise awareness of crime and victimization by conducting public awareness activities during National Crime Victims' Rights Week.

> *It is very positive when a victim walks up to you in public and thanks you for all your help and tells you how it has changed their life.*
>
> A Victim Advocate

More globally, public education efforts can help reduce the stigma of certain types of victimization, such as sexual assault or domestic violence, and encourage victims to seek help, including criminal justice interventions. In addition, male leaders and influential organizations should play an active role in sending a message to other men that violence against women is not acceptable. To address the growing problem of economic crimes committed against the elderly, State Attorneys General should institute or expand consumer education programs for older persons.

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #9

Evaluation studies should be conducted to determine if current methods of victim assistance are effective and to identify critical areas in which additional victim intervention and assistance services are needed.

Many experts in the field of victim assistance have expressed concern about the lack of information on what types of services and assistance are most effective in serving crime victims. For example, an evaluation of the effectiveness and impact of different individual or group crisis intervention models should be conducted, including examining components of other trauma interventions such as immediate assistance and peer support programs.

To address this need, OVC is working closely with researchers at NIJ and with leading researchers and practitioners in the field of victimization and victim services to evaluate the effectiveness of state VOCA-funded compensation and assistance programs in meeting the needs of crime victims. The multiyear project will include a needs assessment of the target population from the victim's point of view; an assessment of the services available to victims, including both federally funded and reimbursable programs; identification of unmet needs such as gaps in service or access to compensation; and suggestions for improving the delivery and funding of services to all crime victims.

On the national level, the effectiveness of each new program implemented should be evaluated. There is no value in reinventing the wheel, but there is a benefit to replicating successful programs in a new context or with a different target population. In addition, standard evaluation procedures and protocols should be developed for each component of victim services. With such efforts, programs can measure their own success and compare their progress with others in the field.

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #10

There should be a clearly defined code of ethics to bind all victim service providers in the field to designated standards of behavior.

Most professions have adopted an accepted code of ethics that guide the values and minimum standards of professional behavior by the professionals within it. The field of victim assistance, however, has yet to adopt such a code.

On the national level, NOVA has developed a suggested Victim Assistance Provider's Code of Ethics. It begins with this statement of purpose:

> The victims' movement expects its members to act with integrity, treating all victims of crime with dignity and compassion, and to uphold fair standards of justice for accused and accuser alike. To this end, the following principles will govern the behavior of victim assistance providers.[61]

The principles address three critical areas: the service provider's relationship with victims; the service provider's relationship with colleagues, other professionals, and the public; and rules for professional conduct.

Victim service providers in South Carolina have drafted a code of ethics that cover similar principles, and MADD has also implemented a code of ethics for their victim advocates. Failure to meet the code's standards results in the advocate's removal from service.

The development of a code of ethics should be part of the mission of the proposed national commission on standards and accreditation described in recommendation 7. To be effective, the code must include a way to hold victim service providers accountable when they fail to comply.

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #11

Victim assistance providers should expand current statewide networks to build a capacity for addressing communities in crisis. Each state should develop a crisis response team and interact with other disaster planning efforts.

Each state should develop and train a statewide crisis response team to assist communities within their state that suffer mass acts of violence, terrorism, or community disasters. Local and regional teams should also be developed.

The creation of a national office for such crisis response should be seriously considered and charged with the following responsibilities: developing and disseminating a model for state and local community crisis response; developing a national training and education component; coordinating national support in the aftermath of a community crisis; and maintaining a stress intervention program for victim assistance providers and others who become involved in community crisis response. Because many community disasters involve criminal acts, such an office must involve the Department of Justice; but it should also involve the Federal Emergency Management Agency and other federal departments concerned with the relief and recovery of communities affected by technological and natural disasters.

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #12

Victim service providers should develop interagency response protocols for assisting all crime victims, including child victims, elder abuse victims, and victims of sexual assault and domestic violence.

Developing multidisciplinary responses to victimization is important for all victims, but it is especially critical for children, the elderly, and victims of sexual assault and domestic violence. To help professionals be alert to the signs of elder abuse and neglect, protocols such as the Diagnostic and Treatment Guidelines on Elder Abuse and Neglect developed by the American Medical Association should be adapted and used. For stalking intervention, a multidisciplinary approach should be developed that involves law enforcement, the judicial system, correctional and social service agencies, and victim service and advocacy organizations. Appropriate, accessible, and safe shelters should be available that address the special needs of older women, with special attention to rural communities. Cross-training, coordination, and coalition building between the elder abuse and domestic violence communities is imperative. Similar relations should be established between domestic violence and sexual assault programs because sexual violence is often part of the batterer's abusive behavior. Several excellent interagency response protocols for sexual assault have been developed by local, state and national rape crisis agencies working in coordination with law enforcement, prosecution, hospitals, and the courts.

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #13

A national hotline that provides 24-hour immediate crisis counseling, information, and referral to services for all victims of crime should be established. In addition, every state should establish statewide, toll-free 800 numbers to provide information and referrals for victims of crime.

As a result of the enactment of the Violence Against Women Act in 1994, a national toll-free hotline was created for victims of domestic violence to call for 24-hour crisis intervention, assistance, and referrals in English and Spanish. Interpreters are available to translate an additional 139 languages. The hotline uses state-of-the-art technology to transfer calls from the national hotline to local domestic violence programs and shelters in the victim's community. Extensive public awareness efforts of the hotline have been undertaken with public and private support, and nearly 10,000 individuals across the United States use the hotline each month.

The establishment of national and statewide hotlines for *all* crime victims should be a priority for the victims' movement. In many rural areas across the country, victims have little access to information about their rights, services, and compensation. Expanding the nation's capacity to provide information and referrals to crime victims would provide a basis of service for underserved victims. Approximately half of the states operate 800 numbers for certain crime victims, but few are available for all crime victims. Some states operate general victim assistance 800 numbers out of a state office, while others report that 800 number assistance is limited to specific victim population groups, primarily domestic violence or sexual assault victims. A nationwide survey of 800 number programs in operation across the states should be conducted to provide VOCA administrators with ideas on developing and funding these types of services.

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #14

Victim assistance programs should integrate technological advancements into their programs to help better meet the needs of crime victims.

Victim assistance programs must integrate computer and telecommunication technology into their management and service delivery systems. Technical assistance and training in the development and integration of technological innovations should be provided with support from federal and state funding.

A comprehensive victim assistance program database should be established and provided to the field via the Internet and an 800 number. The database should include the names, locations, and types of victim services available worldwide and give users the ability to exchange referrals and other information on services through a telecommunications network. Victim assistance providers should also explore using the Internet to expand their services.

A national center should be created to locate or develop, as needed, software that local programs could use for case management, internal evaluations, and reporting, all tailored to the needs of victim assistance programs. Such a center would assist the field in achieving its goal of seeing that all VOCA-funded programs have full access to the Internet and help other victim assistance programs obtain Internet access at no cost.

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #15

Victim assistance programs should comply fully with the 1990 Americans with Disabilities Act to ensure that victims with disabilities can access available services. More programs that focus on serving victims with disabilities must be established. Additional research should be conducted to determine the extent of victimization against people with disabilities and to guide strategies to increase reporting and prevent this type of victimization. Criminal justice professionals and the victim service community must receive additional training in providing outreach and assistance to victims with disabilities.

Under the Americans with Disabilities Act (ADA), a disabled person cannot be denied access to services, programs, or activities associated with a public entity. The ADA covers at least 900 different disabilities including mental impairments. It is critical that agencies meet the spirit and the letter of this law by making public buildings accessible to all and ensuring that communications about victim rights and services are understandable by all.

While limited research studies have been conducted that document that people with disabilities are at much greater risk for victimization than people without disabilities, large-scale studies are needed to fully understand the extent of victimization and how to prevent it. These studies would help provide needed information to develop relevant training programs and public policy reforms.

VICTIM ASSISTANCE RECOMMENDATION FROM THE FIELD #16

Victim service providers should be trained to assist crime victims who interact with members of the media.

The increase in the news media's coverage of crime and victimization has resulted in very specialized discipline within the field of victim services: advocating for crime victims whose cases are covered by the news media. Training programs to help service providers work more effectively with members of the news media, as well as guidelines in media relations that help providers enhance their professional relationships with the news media, are regularly offered at training conferences and as a component of victim service professional education.

The constituency *most* affected by the news media coverage of violence and victimization is crime victims. While sensitive coverage of victim's cases can be helpful and in some cases even healing, media coverage that is insensitive, voyeuristic, and uncaring compounds victims' emotional and psychological suffering.

The National Victim Center has developed guidelines for victim assistance providers who work with victims who choose to deal with the media. First published in a brochure in 1987 entitled *Victims' Rights and the Media,* the guidelines offer valuable counsel to crime victims whose cases are covered by print and broadcast news media. While the "rights" enumerated in this brochure are not mandated by statute or policy, they should be considered guiding principles that all service providers should provide to crime victims before they interact with the news media.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

Guidelines for Victims Who Choose to Deal With the Media[62]

You have the right:

1. To say "no" to an interview.
2. To select the spokesperson or advocate of your choice.
3. To select the time and location for media interviews.
4. To request a specific reporter.
5. To refuse an interview with a specific reporter even though you have granted interviews to other reporters.
6. To say "no" to an interview even though you have previously granted interviews.
7. To release a written statement through a spokesperson in lieu of an interview.
8. To exclude children from interviews.
9. To refrain from answering any questions with which you are uncomfortable or that you feel are inappropriate.
10. To know in advance the direction the story about your victimization is going to take.
11. To avoid a press conference atmosphere and speak to only one reporter at a time.
12. To demand a correction when inaccurate information is reported.
13. To ask that offensive photographs or visuals be omitted from broadcast or publication.
14. To conduct a television interview using a silhouette or a newspaper interview without having your photograph taken.
15. To completely give your side of the story related to your victimization.
16. To refrain from answering reporters' questions during trial.
17. To file a formal complaint against a journalist.
18. To grieve in privacy.
19. To suggest training about media and victims for print and electronic media in your community.

Establishing Comprehensive Victim Services

In order to provide crime victims with dignified and compassionate treatment, sustained financial and emotional support, and enforceable rights, every community should strive to ensure that the following services are available for crime victims:

Emergency Aid

- On-scene crisis intervention
- 24-hour crisis hotline
- Sensitive death notification
- Information on victims' rights and services
- Referrals for emergency financial aid
- Emergency transportation
- Accompaniment to hospital for rape examination
- Referrals for emergency shelter
- Referrals for short- and long-term counseling
- Local Emergency Fund to aid victims
- Assistance with emergency compensation claim
- Information and assistance on security options
- Emergency restraining or protection orders
- Information and assistance on recovery of stolen property
- Information and assistance on document replacement
- Child care services
- Crime scene cleanup
- Interpreter services

Counseling and Advocacy

- Crisis intervention services
- Short-term counseling
- Long-term counseling
- Access and referrals to self-help support groups
- Group counseling
- Community crisis response
- Access to counseling during criminal and juvenile justice adjudications
- Intervention with employers, creditors, and landlords
- Intervention with public agencies

Investigation

- Regular updates on status of investigation
- Notification of suspect arrest
- Basic information on the criminal justice system
- Compensation claim filing and processing assistance
- Referrals for short- and long-term counseling
- Interpreter services
- Protection from intimidation and harassment
- Notification of pretrial release of accused
- Input into bail/bond release decisions

Prosecution

Orientation to the criminal justice system
Regular updates on status of case
Accompaniment to court
Witness alert/on-call technology 24 hours per day
Safe and secure waiting areas
Employer intervention services
Notification of plea negotiations
Victim consultation in plea decisions
Assistance in recovery of property held as evidence
Information on restitution
Restitution routinely requested or an explanation in writing
Landlord/creditor intervention
Transportation/parking assistance
Child care services

Sentencing

Notification of right to submit a victim impact statement
Victim impact information in presentence investigation report
Victim impact statement—written
Victim impact statement—allocution
Victim statement of opinion
Audio taped or videotaped victim impact statement
Notice of sentence

Post Disposition

Information/notification of appeal
Collection of restitution
Restitution payment as condition of probation or parole
Notification of parole hearing
Victim impact statement at parole—written
Victim impact statement at parole—allocution
Audio or videotaped victim impact statement at parole
Notification of violation of parole/probation
Notification of revocation of parole/probation
Notification of application for clemency, pardon, or commutation
Notification of escape and capture
Notification of custody location
Name of probation officer or other supervised community release officer
Notice of execution date in death penalty cases
Advance notification of release

Endnotes

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CHAPTER 7

The Health Care Community

In 1985, former Surgeon General C. Everett Koop declared violence in America to be a public health emergency and convened a historic conference on violence and public health, involving physicians, nurses, public health workers, researchers, policymakers, and advocates. Yesterday's emergency has become today's epidemic, with some inner cities looking more like war zones than urban communities. The costs to the U.S. health care system are astounding:

- Three percent of U.S. medical spending—and 14 percent of injury-related medical spending—is caused by interpersonal violence.[2]
- During 1994, U.S. hospital emergency department personnel treated an estimated 1.4 million people for injuries from confirmed or suspected interpersonal violence.[3]
- One insurer, Blue Cross/Blue Shield of Pennsylvania, estimated that more than $32 million a year is spent in that state alone to treat domestic violence injuries.[4]
- Gunshot violence in the United States costs $4.5 billion a year in medical expenses alone.[5]
- Alcohol-related crashes cost $45 billion per year, with the average cost per victim at $16,000.[6]

Whether looking at the cost of the expensive emergency surgery needed by more than half of all gunshot victims, the permanent brain or spinal cord damage suffered by a high percentage of the survivors, or the psychological trauma and long-term health consequences endured by victims of relationship violence and sexual assault, violence in America is both a major health risk for individuals and an enormous drain on the nation's health resources.[7]

Dr. Koop's urgent message challenged health care providers and the public to seek out the root causes of violence and develop the best treatments. This new focus for health professionals has been demonstrated at an institutional level, from the U.S. Surgeon General and the American Medical Association to local chapters of organizations like the American Academy of Pediatrics, the American College of Physicians, and the American College of Emergency Physicians.

> *Identifying violence as a public health issue is a relatively new idea. Traditionally, when confronted by the circumstances of violence, the health professions have deferred to the criminal justice system. . . . [Today] the professions of medicine, nursing, and the health-related social services must come forward and recognize violence as their issue.*[1]
>
> Former Surgeon General
> C. Everett Koop

Organizations such as the American Medical Association, the American Nurses Association, the American Association of Emergency Nurses, and the American Academy of Pediatrics, have taken a strong and visible role in efforts to reduce violence and create a safer, healthier society. Many professional organizations actively supported legislation such as the Brady Law, the Assault Weapon Ban, the Violence Against Women Act, the Child Safety Act, and laws to reduce drug distribution and handgun possession by juveniles. Medical and public health research organizations, often funded by the Centers for Disease Control and other Federal agencies, have examined the risks of violence from many perspectives, greatly increasing the knowledge base of criminal victimization. Physicians have established coalitions with law enforcement personnel, social service workers, clergy, teachers, parents, and government leaders to actively fight the epidemic of violence. Their energy and commitment comes from seeing firsthand the consequences of violence, from the gunshot wound in the trauma unit to the abused child in the community clinic.

> *The AMA can bring its organizational resources to bear on a national agenda [of violence prevention through publications and advocacy]. . . However, the true success of our commitment will come when we as physicians, treating patients one at a time, make a difference by breaking the cycle of violence that engulfs people's lives.*
>
> **Dr. Robert E. McAfee,**
> **former President**
> **American Medical Association**

What happens in the clinical setting is paramount from the victim's point of view. Physicians must diagnose, treat, and mend victims of crime, while also consoling and caring for them and their families. Treating patients with sensitivity to their physical conditions, as well as to the psychological impact of victimization, can help the overall physical and mental healing process.

The President's Task Force on Victims of Crime recognized that the medical community is often the first to come into contact with crime victims who have experienced some form of injury. Because victims are understandably fearful and insecure when they arrive at medical centers, the 1982 Task Force recommendations focused on the clinical setting and the need for hospital personnel—from the emergency room to the billing department—to be sensitized to the emotional trauma of victimization and to treat the whole patient, not just the physical manifestations of the criminal violence.[8] The *Final Report* also recommended that hospitals should:

- develop and implement training programs for hospital personnel to sensitize them to the needs of victims of violent crimes, especially the elderly and those who have been sexually assaulted;
- provide emergency medical assistance to victims of violent crime without regard to their ability to pay and collect payments from state victim compensation programs;
- provide emergency room crisis counseling to victims of crime and their families;

- encourage and develop direct liaisons with all victim assistance and social service agencies; and
- develop, in consultation with prosecuting agencies, a standardized rape kit for proper collection of physical evidence.

In the 15 years since the Task Force released its recommendations, changes in professional norms, institutional resources, and clinical practice have made it easier for the health care community to respond effectively to crime victims. One of the most visible indicators of change in hospital response is the adoption of standardized protocols for victim care, as well as statutory requirements for victim services in many states. In addition, the Joint Commission on Accreditation of Hospitals, the organization that accredits these facilities, has added standards for victim response to its review requirements.

Great strides have been made to sensitize health professionals to the signs and symptoms of domestic violence and child abuse and educate them in appropriate treatments. Hospital-based Sexual Assault Nurse Examiner (SANE) programs are springing up around the country to assist rape victims in supportive settings, and some hospitals have developed comprehensive social services for crime victims, including individual and group counseling.

The medical community has responded slowly and inconsistently, however, to the recommendations of the Task Force concerning training of all hospital personnel, counseling in the emergency room, and referrals to victim assistance organizations. The health care community is just beginning to institute pilot projects to address the special needs of crime victims such as adolescent gun violence victims, one of the fastest growing populations of crime victims in the nation,[9] and the hidden victims of family violence. In the words of Donna E. Shalala, Secretary of Health and Human Services:

> [W]e simply must do better. Because a battered woman may never call the police... she may never contact a lawyer... she may never enter a shelter, but, eventually — even if it's only for a routine check-up — she will probably visit a doctor, nurse, or community health worker. And we must be ready when she does... [W]e want to better reach out to health care professionals... strengthening our ability to screen, treat, and prevent violence against women.[10]

Established Programs

Since the President's Task Force *Final Report* was released in 1982, significant advances have been made in identifying and treating victims of family abuse, providing supportive services for sexual assault victims, and reimbursing crime victims for medical expenses.

Family Violence

The health care community has responded to family violence, which encompasses abuse across the entire life cycle—children, adults, and the elderly. Coalitions of national health organizations have been established to address family violence and develop protocols on recognizing and treating family violence. The American College of Obstetricians and Gynecologists (ACOG) became the first national medical organization to address domestic violence in response to the high incidence of physical abuse among pregnant women. ACOG collaborated with the National Coalition Against Domestic Violence to publish bulletins and brochures about domestic abuse for its members and their patients.

Another major health organization, the American Medical Association (AMA), also has pushed the medical community to respond more forcefully to family violence. In 1991, the AMA launched its Campaign Against Family Violence to heighten physicians' awareness of domestic violence, child abuse, and elder abuse as public health problems. The campaign sought to improve physicians' ability to recognize the risk factors and symptoms of abuse and refer patients for shelter and services when needed. The AMA has published a set of diagnostic and treatment guidelines for physicians in the areas of child physical abuse and neglect, child sexual abuse, domestic violence, and elder abuse and neglect. Both the AMA and the American Nurses Association have developed protocols for appropriate intervention and treatment of family violence. The Joint Commission on Accreditation of Healthcare Organizations now requires hospitals to develop protocols for the identification and treatment of battered women.[11] A couple of the more successful hospitalwide protocols for assessing and intervening on behalf of domestic violence victims are the Advocacy for Women and Kids in Emergencies (AWAKE) program at Children's Hospital in Boston, Massachusetts, and WomanKind, a 24-hour case management, advocacy, crisis intervention, hospital-wide training, support group, and outpatient assistance program serving three Minnesota hospitals.

Sexual Assault

Beside providing immediate treatment for victims, medical staff are required to collect relevant evidence to document an assault and to report their findings. Appropriate documentation provides useful information for prosecutors and victims when taking criminal and other legal action against perpetrators. As the 1982 President's Task Force Report recommended, a primary consideration is the use of appropriate evidence collection kits to gather information in sexual assault and sexual abuse cases for later evidentiary use at trial. This must be done sensitively, but competently, so that the trauma of the rape examination is minimized and evidence is collected accurately.

Many hospitals have established protocol for the comprehensive treatment of sexual assault victims, including the use of specialized kits for forensic exams. However, one study found that such an exam occurred in only 17 percent of all rape cases.[12]

Since 1990, the number of Sexual Assault Nurse Examiner (SANE) programs across the country has doubled to 86.[13] SANE programs offer an innovative approach to handling the medical/evidentiary aspects of sexual assault and child abuse cases through the use of technology, nurse examiners, and specialized settings. Instead of having doctors handle these cases in busy emergency rooms, SANE programs create a special environment for victims and use trained nurse examiners to conduct the evidentiary medical examination and present the forensic evidence at trial. According to the Tulsa Police Department, the nationally recognized Tulsa SANE program has substantially improved the quality of forensic evidence in sexual assault cases. The Sexual Assault Resource Service of Minneapolis is developing a guidebook for starting SANE programs for use by communities.

Compensation for Emergency Medical Care

Victim compensation programs in all 50 states, the District of Columbia, and the Virgin Islands reimburse private and public hospitals for the cost of emergency medical assistance to crime victims when that cost is not covered by private insurance or other public medical benefits. In most states, emergency medical assistance is reimbursed to the hospital in the full amount of the cost billed. In others, state law or rule authorize providing victim compensation programs to pay a percentage of the billed amount, similar to the practice followed by private insurance carriers or public medical programs such as Medicaid. For example, Delaware pays 80 percent of billed charges; Arkansas, California, and Maine pay 75 percent; Florida covers 66 percent; and Louisiana pays 65 percent. A number of states also ensure, by law, that victims are not held responsible for the remaining amount of the bill.[14]

> *I hugged an emergency room doctor when he told me my son was going to die. I clung to a stranger because no one else was there.*
>
> A survivor of a drunk driving crash

Promising Practices

Pilot programs linking victim services with health care settings are increasingly being initiated across the country. These promising practices bring together professionals from many disciplines to create victim services that aid recovery without revictimizing patients or their families.

Professional Education and Training

Education and training for physicians and other health care providers are essential to ensure a sensitive and forensically sound response to criminal injuries. Until a family violence curriculum becomes standard in all professional schools for medical personnel and in postgraduate continuing education programs, health care personnel are likely to overlook this form of abuse, missing an important opportunity for early intervention and support. Fortunately, excellent training protocols for responding to victims have been developed, and they are being used by some hospitals around the country.

- With funding from the U.S. Department of Health and Human Services and several major foundations, the National Health Initiative on Domestic Violence, a project of the Family Violence Prevention Fund (FVPF), has developed, evaluated, and disseminated multidisciplinary training programs to strengthen the medical community's response to battering in a variety of settings. The programs were tested in 12 California and Pennsylvania hospitals in 1994 and 1995. In only 9 months, all 12 hospitals successfully designed and implemented a comprehensive interdisciplinary emergency department response to domestic violence, which includes physicians, nurses, social workers, administrators, and community advocates. The model is now being used in more than 130 hospitals and health care settings. FVPF recently published a manual with step-by-step instructions to develop this field-tested, low-cost model program, as well as a blueprint to create a citywide health care response to domestic violence.[15] In 1997, the Initiative began its second phase, expanding into ten states to work with a coalition of interested organizations to develop and implement a statewide plan for a comprehensive hospital-based response to domestic violence. A national conference, *Domestic Violence and Health Care: Initiatives for the New Millennium,* was held in Washington, D.C., in November 1997 to flesh out the steps necessary to expand and improve the U.S. health care response to domestic violence.

- Individual hospitals are pioneering specialized victim services training for physicians and mental health professionals. The Harborview Center for Sexual Assault and Traumatic Stress at Harborview Hospital in Seattle, Washington, one of the oldest victim service programs in the nation, has been a national leader in developing comprehensive mental health services for sexually abused children and adults. A medical training program at Harborview, supported by state funds, provides training to physicians and other health care providers who examine sexual assault victims. The program also provides emergency department training in acute response, a mentorship program for doctors, colposcopy[16] slide review for quality assurance, and protocols for administering tests for sexually transmitted diseases to adolescent and adult patients reporting rape.

- At Children's Hospital in San Diego, California, the Center for Child Protection (CCP) was established in 1976 to address the prevention, diagnosis, and treatment of child abuse and family violence. Its services include intensive home visiting, assessment, and case management; support for pregnant and parenting teens; assistance to women in identifying and accessing resources to break the cycle of family violence; and individual, group, and family therapy to victims of child abuse and their caretakers. The success of these programs led to numerous requests for training and technical assistance from other health care providers. In response, CCP started a clinical training program that offers accredited continuing education to physicians in conducting the medical evaluation of child sexual abuse and to interview specialists in conducting forensically defensible videotaped interviews of children. CCP's San Diego Conference on Responding to Child Maltreatment and Summer Seminars by the Sea provides state-of-the-art multidisciplinary education to 2000 professionals from around the world each year.

- An interactive teleconference was used statewide in Alabama to train public health department employees in domestic violence identification and treatment. Developed through a partnership between the Alabama Coalition Against Domestic Violence and the Alabama Department of Public Health, this innovative training program used a talk-show format: an Alabama newscaster was host, and a physician, shelter director, attorney, and three survivors played the roles of talk show guests.[17]

> *The chief medical examiner told me that this (the bombing) tore down every (protective) wall he had built up.*
>
> **Diane Leonard**
> **survivor of homicide of the bombing of the Alfred P. Murrah Federal Building, Oklahoma City, OK**

- In its continuing effort to educate the medical profession about domestic violence, the American College of Obstetricians and Gynecologists has produced a slide lecture about the health care needs of domestic violence victims. Target audiences include OB-GYN residents, third-year OB-GYN medical students, first- and second-year medical students in courses such as Introduction to Clinical Medicine, and other health care providers including emergency department personnel, dentists, nurse midwives, nurse practitioners, and mental health providers.
- In 1997, the Program Against Sexual Violence and the School of Dentistry at the University of Minnesota received funding from the Office for Victims of Crime to develop a comprehensive education model for dentists and dental auxiliaries regarding family violence. The project will produce a training videotape on the clinical and medical signs of family violence in the dental setting; develop a curriculum for a six-hour seminar designed to train dental professionals to recognize family violence and to implement appropriate intervention; and design a comprehensive training packet which will enable the dental team to easily apply the intervention model to their own office setting.
- Victim Services in New York City has launched a 3-year pilot project with HIP, the city's largest managed care health provider, to respond to victims of domestic violence. The pilot has four components: physician and staff training; universal screening of all female

patients; care management of identified domestic violence victims; and public education and outreach to HIP members. Other goals of the pilot include developing models of coordinated care between the mental health and primary care physicians, developing outcome measures to track benefits of the intervention, and developing actuarial data on the prevalence and cost of domestic violence to HIP. Over 185,000 HIP members will be served by the project. The project is funded by HIP, the Robert Wood Johnson Foundation, Chase Bank, and the New York State Department of Health.

Multidisciplinary Approaches in Health Care Settings

Health care, mental health, religious, and social service agencies must work closely with police officers and detectives, prosecutors, judges, court personnel, correction professionals, and victim assistance providers when assisting victims of crime. In the past, these professionals have not necessarily shared the same goals, nor were they amenable to working together. These allied professionals are beginning to recognize that they must cooperate and understand each other's functions when responding to criminal victimization.

Education is the most powerful tool we have in our quest to break the cycle of violence because it addresses the problem where it begins — at the grassroots.

Dr. Percy Wooton,
President, American
Medical Association

- The Violence Prevention Task Force of San Francisco General Hospital (SFGH) was established in 1994 to build bridges between the many hospital departments that interface with victims of violence, and between the hospital and the community. Comprised of representatives from the hospital's trauma, surgery, emergency services, psychiatry, nursing, pediatrics, family medicine, social work, and administration departments, the task force is facilitating institutional change in the way crime victims are treated. They also seek to foster a culture of violence prevention at SFGH. Members of the task force conduct staff training sessions to raise consciousness about violence and sponsor annual educational fairs for community victim service agencies to share resources and dialogue with health care workers.

- The Center for the Vulnerable Child at the Los Angeles County-University of Southern California Medical Center was founded in 1984 as one of the first hospital-based family violence advocacy centers in the nation. The state-of-the-art medical treatment and forensic documentation provided by the center is complemented by a multidisciplinary approach, including legal, social, and mental health services, to guarantee that all patients are treated with dignity. The center uses new interactive computer technology called telemedicine to consult with health providers in rural areas on conducting examinations of abused children. In addition, the center is using Office for Victims of Crime funding to develop a hospital-based emergency shelter for victims of spousal abuse and their children to serve as a laboratory and training site. The shelter will assist victims of spousal assault by assessing the potential for repeated violence to parents and children in a safe environment.

- The Children's Advocacy Center in Niagara, New York, a service of Niagara Falls Memorial Medical Center, is another example of a multidisciplinary program in a hospital setting that offers a single child-friendly facility for children who have been physically or sexually abused. Prosecutors, police officers, social services workers, therapists, victim advocates, and medical professionals work together to investigate allegations and to reduce the trauma for these children. The center also provides training for team members several times a year.

- The National Crime Victims Research and Treatment Center at the Medical University of South Carolina provides specialized mental health services while working closely with police agencies, the prosecutor's office, the local rape crisis center and battered women's shelter, the state crime victim assistance network, and the crime victims compensation agency. Physically injured crime victims hospitalized in the medical center are provided with information about the justice system, crisis counseling, and referrals for outpatient treatment.

- In the rural community of La Crosse, Wisconsin, the Gundersen Lutheran Crime Victim Services and Victim Resource Center, a program of the Gundersen Lutheran Medical Center, is testing a five-county crisis response protocol for victims of traumatic crime. Supported by a Victims of Crime Act subgrant, the program works to improve the accessibility of clinical service resources to victims of serious crimes; increase victims' access to staff; enhance the skills of physicians, nursing staff, and clinicians for crisis management response; and improve communication among law enforcement, district attorney's offices, and clinical support services.

- The American Academy of Facial Plastic and Reconstructive Surgery (AAFPRS), in partnership with the National Coalition Against Domestic Violence, the umbrella group for the majority of domestic violence shelters across the nation, provides free medical services to victims of domestic abuse. Shelter counselors refer domestic violence victims who have received injuries to the face, head, or neck to AAFPRS for consultation with a surgeon, and suitable candidates are given reconstructive surgery at no cost. Since July 1994, 614 victims have been referred to plastic surgeons.

Programs Assisting Adolescent Gunshot Victims and Victims of Gang Violence

While multidisciplinary protocol are becoming routine for treating victims of child abuse, sexual assault, and family violence, guidelines to address the unique needs of violently injured adolescents did not exist until recently. In November 1996, a Task Force on Adolescent Assault Victim Needs convened by the American Academy of Pediatrics published a model protocol for appropriate care of these victims from their arrival in the emergency department to their discharge from the hospital. The work of the task force was guided by the premise that comprehensive care of violently injured adolescents must address their psychosocial needs as well as their physical injuries. The protocol is designed to promote full recovery and to reduce the risks of reinjury and reactive perpetration.[18]

The OVC Special Report, *Victims of Gang Violence: A New Frontier in Victim Services,* released in October 1996, recommended that hospital-based counseling and prevention programs be established in medical facilities that provide services to gang violence victims. Several hospitals are already testing pilot programs for children and adolescents that involve a range of disciplines over time and across hospital, clinic, and community settings. A few are highlighted below.

- The Teens on Target program at the Summit Medical Center in Oakland, California, and at the Rancho Los Amigos Medical Center in Los Angeles has been hailed nationwide as a model for hospital-based gang violence intervention. It provides immediate and long-term assistance to teenage victims, intervention with gang members who accompany victims to emergency rooms, and gang prevention strategies for schools. The program uses trained peer counselors, many of whom are in wheelchairs because they were victims of gang violence, to give bedside support to injured teens and help them find alternatives to violence.

- Project Ujima is a unique multidisciplinary collaboration of the Children's Hospital of Wisconsin, the Social Development Commission/Milwaukee Youth Opportunities Collaborative, the Medical College of Wisconsin, the Wisconsin Department of Health Education, and Family Services of Milwaukee. The project was created to prevent violence and improve the health of violently injured youth in the Milwaukee community. To accomplish this, the project's partners established a network of medical, psychological, and social support systems to provide emergency service for young victims and their families. In the Children's Hospital emergency department, peer counselors, community-based staff, and a social worker provide support and a sense of safety and trust. Following discharge, youth and families are visited at home by service providers who provide them with continued medical care and a complete health assessment as well as integrated violence prevention services. Training sessions for hospital staff focus on effective communication and sensitivity toward violently injured youth of different races and ethnic backgrounds.

- KidStART is a Violent Injury Prevention Center for physical and psychological healing of violent injuries that started in 1995 as a pilot at the Children's Memorial Medical Center in Chicago, Illinois. KidStART counselors meet each week with an average of 21 young victims of violent injury in the hospital's special art studio, where they paint, draw, make masks, and sculpt in clay. Parents, siblings, and other hospital patients may also participate. The program has had a visible impact on these patients by allowing them to express and validate their feelings of fear, frustration, and pain utilizing creative arts as their primary media.
- The Violence Prevention Club, established in 1991 by the Boston Violence Prevention Program and now replicated at the Boston Medical Center, is designed to provide guidance and support to young people with spinal cord and other injuries caused by violence. Young gunshot victims in the hospital have immediate contact with a member of the violence prevention staff and are matched with peer counselors who also have sustained gunshot injuries. The recovery period in the hospital and rehabilitation center offers a window of opportunity for survivors to be exposed to supportive resources and peer role models in the community. Once discharged, they are encouraged to become advocates for prevention. Youth and adult staff of the Violence Prevention Club have trained and assisted other spinal cord injury units and city health departments across the nation in developing their own violence and victimization intervention initiatives.

> *Time, it seems, is the only thing I have right now. For the past five weeks I have been sitting in a hospital room beside my husband's bed, for something that was so senseless and so wrong to happen to him. Five weeks ago my husband was shot three times in the head in a gang related incident. Violence and crime has to be changed to love and hope.*
>
> The wife of a shooting victim

Recommendations from the Field for the Health Care Community

HEALTH CARE COMMUNITY RECOMMENDATION FROM THE FIELD #1

All professional schools that educate future health care professionals, including schools of medicine, nursing, social work, rehabilitation, hospital administration, and public health, should incorporate victim issues into their curricula.

It is critical that the health care community learn about the psychological, as well as the physical trauma caused by crime. At a minimum, courses on the trauma of victimization, child sexual and physical abuse, elder abuse and neglect, domestic violence, and sexual assault should be a standard part of curricula for health care providers. The objectives of a violence curriculum should be: to educate about risk factors, indicators, prevalence, and consequences of violence; to increase awareness of the prevalence of family violence; to emphasize the need to screen all patients for alcohol and other drug abuse; to enhance provider-patient communication skills, including how to take a violence history; to foster a multicultural understanding and sensitivity; and to expand knowledge of victims' rights and available services to enhance capability for quality and timely referrals.[19] These topics should be included in professional licensing examinations, and continuing education programs throughout their careers.

Doctors—and other health care professionals—need to know the signs of abuse, what questions to ask, and how to screen women from all cultures and ethnic groups who may have suffered domestic abuse. They need to know that if they suspect child abuse, they also need to screen the parents . . . In a managed care environment, a woman doesn't generally have one doctor—a Marcus Welby or Ben Casey taking care of her throughout her life. So it's particularly important that every doctor, nurse, physician's assistant, and midwife is learning about domestic abuse right along with anatomy and physiology.[20]

Health and Human
Services Secretary
Donna Shalala, 1997

HEALTH CARE COMMUNITY RECOMMENDATION FROM THE FIELD #2

All patients should be routinely assessed for indications of domestic abuse or other history of violence, and any signs or symptoms of abuse should be documented in their medical records.

State legislatures should consider following the lead of California, the first state to mandate that all hospitals and licensed clinics routinely screen patients for indicators of abuse,[21] document such indicators in their medical records, and refer patients to domestic violence assistance resources.[22] The law also requires all health care providers to complete domestic violence course work or training as part of the licensure and recertification process. Other states, such as Florida and New York, require similar training for physicians licensed by the state. Whether required by state law or not, health care responders should be instructed and trained to gather evidence to document domestic violence injuries for use later in criminal, juvenile, child protective, and civil proceedings. Medical personnel should document the patient's injuries and report in as much detail as possible, using sketches or photographs and the exact words the patient uses to describe the incident.[23] Support systems for the protection of health care professionals who report child abuse, neglect, and child witnessing of violence should be strengthened.

HEALTH CARE COMMUNITY RECOMMENDATION FROM THE FIELD #3

Hospitals should establish training programs and protocols for all hospital personnel about the rights and needs of victims of crime.

Annual mandatory training programs for hospital staff on victims' needs should include presentations by individual victims or victim panels on the trauma of victimization and victims' rights laws. The training should be multidisciplinary and devote special attention to victims of sexual assault, child abuse, domestic violence, elderly victimization, hate and bias crimes, and catastrophically injured patients, including those injured in drunk driving crashes. Protocol similar to those developed by the AMA and American Nurses Association should be developed to ensure appropriate procedures for collecting, preserving, and transmitting evidence and to eliminate repeated interviews of victims by doctors, nurses, and social workers.

Actually, a nurse who had been a survivor of drunk driving herself told me about crime victims compensation.

A survivor of a drunk driving crash

HEALTH CARE COMMUNITY RECOMMENDATION FROM THE FIELD #4

Medical facilities including hospitals and rehabilitation and trauma centers should serve as gateways to assist victims of crime. Response staff should be available in these settings to provide onsite crisis counseling, follow up with patients, and serve as links to in-house and community resources.

The health care, social service, criminal and juvenile justice, and other professional communities must integrate their response to violence if victims are to be provided a safety net that functions effectively. Medical settings should develop linkages with a variety of area resources including victim service agencies. Special consideration of the needs of victims, such as food, clothing, transportation, and the development of safety plans should be taken into account in emergency rooms and trauma centers. Programs should involve the family in aftercare and should educate them about victims' needs and rights before they leave the hospital. In all cases, victims must be informed about options and be at the center of decisions related to their aftercare.

HEALTH CARE COMMUNITY RECOMMENDATION FROM THE FIELD #5

Victims of sexual assault should be given emergency medical care, forensic examinations, and testing for HIV and sexually transmitted diseases at no out-of-pocket cost and in a supportive setting. More hospitals should consider establishing Sexual Assault Nurse Examiner programs to respond sensitively to the needs of sexual assault victims.

Specialized medical examinations for child and adult victims of sexual assault have forensic, health, and psychological purposes. In these times of dramatic changes in the health care delivery system and a shift to managed care, it is especially important to ensure that victims receive the full range of treatment they need including diagnosis and treatment of injuries, and testing, counseling, and treatment for sexually transmitted diseases. Financing these critical services could be accomplished through government support of forensic practitioners, criminal or juvenile justice system reimbursement for examination costs, or coverage by VOCA-funded crime victim compensation programs. In federal sexual offense cases, the Attorney General should provide for the payment of the cost of two anonymous and confidential tests of the victim for the HIV virus and sexually transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis.[24]

> *At the hospital, I was denied a shower. I drove home in the same clothes and condition as at the time of the rape.*
>
> A rape victim

HIV testing should be conducted at an anonymous testing site that provides pre- and post-test counseling. Anonymous testing allows the victim to keep his/her results private and avoids the potential for the results to be discovered by defense attorneys or insurance companies when the test is performed in a hospital setting. Any costs associated with the testing should be covered by the medical community or by crime victim compensation.

HEALTH CARE COMMUNITY RECOMMENDATION FROM THE FIELD #6

Cultural competency guidelines should be developed to help health care providers improve screening and intervention services for victims from diverse backgrounds.

Detection, treatment, and prevention services for victims of domestic assault, elder abuse, child abuse, and sexual assault are often nonexistent, inadequate, or culturally inappropriate in rural, inner-city, lower income, minority, and immigrant communities. Where these services do exist, victims may be inhibited from seeking help because of cultural barriers. Health care providers often compound these problems by their lack of knowledge about options available to patients, by not discussing the topic out of their own discomfort, and by insensitivity to the cultural context of abuse. Imaginative approaches are needed to foster multicultural understanding on the part of students in professional schools. For example, where standardized patients are used as a teaching method, they should represent the community's racial, cultural, and linguistic groups.[25]

HEALTH CARE COMMUNITY RECOMMENDATION FROM THE FIELD #7

Medical personnel should be knowledgeable about and have policies in place to ensure that statutory privacy protections are applied to medical records, abuse reporting forms, and medical legal evidence. They should respect the confidentiality and privacy needs of all victims of crime and assist them in dealing with unwanted media attention, especially in cases of sexual assault and assaults on children.

Although horrendous crimes may be of interest to the public, crime victims do not have to share the details or their feelings with the public. Hospitals and clinics should develop protocols for protecting the rights of victim-patients in their care who do not want to be interviewed or photographed. Victims of domestic violence, sexual assault, and gang violence may need to be admitted under an alias to protect them from further acts of violence. Security guards should be alerted when violence or unwanted media attention is a possibility.

HEALTH CARE COMMUNITY RECOMMENDATION FROM THE FIELD #8

Counseling and prevention programs and/or a referral system to such programs, should be established in medical facilities that treat violence-related injury, including gunshot victims, to address the broad spectrum of needs of these victims.

The importance of counseling and prevention programs for victims of gang violence was emphasized in the 1996 OVC Special Report, *Victims of Gang Violence: A New Frontier in Victim Services.* Rehabilitation-based intervention strategies to reduce adolescent acquaintance violence are being used in major trauma centers across the country and should be replicated, wherever possible.[26]

HEALTH CARE COMMUNITY RECOMMENDATION FROM THE FIELD #9

Protocols for appropriate security and safety procedures should be developed to assist hospital personnel in responding to incidents of gang, family, and other violence that might result in staff victimization.

Patient assaults on personnel in emergency rooms and other heath care facilities threaten the welfare not only of the assaultive patient, but of staff and visitors. Victims report intense emotional reactions as well as physical injury. While risk management is widely recognized as an important element of the management response, crisis intervention procedures and peer counseling also should be established for emergency service personnel and health care providers affected by assaultive incidents.[27]

HEALTH CARE COMMUNITY RECOMMENDATION FROM THE FIELD #10

Pediatricians, family practitioners, internists, and other health care professionals treating young children should be educated about the effects on children of witnessing domestic violence and violence in the community.

Several studies have documented that children are victims of and witnesses to a significant amount of violence, including homicides and serious assaults.[28] It has also been estimated that at least 3.3 million children witness physical and verbal spousal abuse each year, from insults and hitting to fatal assaults with guns and knives.[29] Pediatricians, pediatric nurses, social workers, and others working in clinical settings need to be able to recognize and treat both short-term and long-term consequences of violence to children, including post-traumatic stress disorder, or ensure appropriate referrals for counseling.

HEALTH CARE COMMUNITY RECOMMENDATION FROM THE FIELD #11

Technology should be utilized to improve medical services for crime victims, especially in underserved and rural areas.

Many crime victims who live in underserved, rural, or remote areas do not have access to physicians to conduct forensic and other needed medical examinations. To help provide these crucial services, rural communities should consider using new technology to link nurse practitioners to trained physicians who can help them to conduct examinations and review procedures. Web sites should be established to provide information and links to local resources for families seeking help on victimization issues.

HEALTH CARE COMMUNITY RECOMMENDATION FROM THE FIELD #12

Statutes and policy should be adopted to prevent insurance companies from discriminating against victims of crime by denying and/or canceling coverage or by charging higher premiums for such coverage.

Some victims and their advocates report that it has become a practice among some insurance carriers to deny claims made by individuals that resulted from their criminal victimization. In addition, some insurers have either refused to cover such victims or have attempted to charge victims exorbitant premiums to obtain such coverage. As a matter of public policy, insurers granted the privilege of doing business in the various states should be required to provide victims with basic coverage much the same way companies are required to insure high risk drivers.[40]

HEALTH CARE COMMUNITY RECOMMENDATION FROM THE FIELD #13

All health care professionals should be educated about sensitive death notification techniques.

Death notification is rarely, if ever, addressed in medical schools, although nursing journals, pastoral care journals, and some medical social worker literature addresses it. OVC has funded the development of four death notification seminars, one geared specifically toward health care providers. The protocol presented are based, in part, on interviews with hundreds of family members who had been notified of the deaths of their loved ones.

HEALTH CARE COMMUNITY RECOMMENDATION FROM THE FIELD #14

Catastrophic physical injury victims, including assault and drunk driving crash survivors with serious injuries, should receive specialized neuro-psychological evaluation in health care facilities.

Emergency room professionals place primary importance on treatment of injuries that are obvious or are detected by x-ray, CT scan, or MRI. Victims who have been seriously injured should also be referred to neuro-psychologists for evaluation of closed head injury and post-traumatic stress disorder. Five to 45% of motor vehicle crash survivors who seek medical attention will develop PTSD within the year following the crash and an additional 15% to 30% will develop symptoms but not enough for the full diagnosis.[31]

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

Endnotes

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CHAPTER 8

The Mental Health Community

Victims of crime often suffer a broad range of psychological and social injuries that persist long after their physical wounds have healed. Intense feelings of anger, fear, isolation, low self-esteem, helplessness, and depression are common reactions.[1] Victimization can shatter the most basic assumptions that allow people to function normally in their daily lives—that they are safe from harm, that the world is meaningful and just, and that they are good, decent people. This happens not only to victims of violent assaults but also to victims of crimes such as burglary and fraud.[2] Survivors of prolonged, repeated trauma, such as battered women and abused children, often suffer severe mental health problems.

The emotional damage and social isolation caused by victimization can be compounded by a lack of support and even stigmatization by friends, family, and social institutions, producing a "second wound" for victims. Those closest to the victim may be traumatized by the crime. They may be so overwhelmed by their own anger, fear, and guilt that they are unable to provide much care and understanding. Some friends and family members, particularly of victims of sexual assault, distance themselves from the victim and blame them for what happened.[3] To protect their own belief in a just world where people "get what they deserve," and to establish distance from the possibility of random or uncontrollable injury, many people prefer to see victims as responsible for their fate.

When victims seek help, they are sometimes met with similar insensitivity. They often feel revictimized by the criminal or juvenile justice process, which traditionally has been more concerned with the rights of the accused than with those of the victim. Justice may become a central issue for victims as they seek to reconstruct their lives and begin to heal.[4] Participation in the justice process is therapeutic when it helps victims to better understand what happened, allows them an opportunity to tell their story, and validates their loss and sense of being wronged. When victims are ignored, their feelings of trauma may be intensified and prolonged.

Millions of Americans of all ages suffer from crime-related mental health problems. Although there have been improvements in providing effective mental health counseling for victims, more needs to be done. Mental health professionals must join with victim assistance professionals to ensure that every crime victim has access to effective mental health services at every stage of the criminal justice system process.

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Progress Since the President's Task Force on Victims of Crime

The President's Task Force on Victims of Crime observed in 1982 that violent crime produces psychological as well as physical injuries.[5] In issuing its recommendations, the Task Force challenged the mental health community to:

- Provide immediate and long-term psychological treatment programs for victims of crime and their families.
- Establish training programs that will enable practitioners to treat crime victims and their families.
- Study the immediate and long-term psychological effects of criminal victimization.
- Work with public agencies, victim compensation boards, and private insurers to make psychological treatment readily available to crime victims and their families.
- Maintain direct liaison with other victim service agencies.

In addition, the Task Force suggested that legislation be enacted to ensure that designated victim counseling is legally privileged and not subject to defense discovery or subpoena.

While the physical and financial injuries of criminal victimization were emphasized in the victims' movement, for many years crime's psychological toll was not fully recognized. In the early 1980s, landmark documents called attention to the fact that victims of violent crime often experience crime-related mental health problems. In 1980, the third edition of the American Psychiatric Association's *Diagnostic and Statistical Manual* included post-traumatic stress disorder as a new diagnostic category and noted that it could be caused by violent crimes such as rape and assault.[6] Four years later, the American Psychological Association Task Force on Victims of Crime and Violence examined the field of psychology and its allied professions. Its final report reviewed the state of psychological knowledge on victimization, surveyed theory and approaches to helping victims, and made recommendations for the mental health community.[7]

Major advances have been made in our understanding of crime-related psychological trauma and the best ways to provide treatment to crime victims. Research on the scope of criminal victimization and its psychological impact has grown substantially. In 1994, the fourth edition of the *Diagnostic and Statistical Manual* pointed out differences between acute traumatic stress disorder—reflecting what is known in the field as the crisis reaction to victimization—and post-traumatic stress disorder.[8] It further recognized the impact of the subjective perception of victims in understanding traumatic events, which opened the way for further research on the effects of culture and environment on victim responses and healing. Research has led to a growing acknowledgment of the differences between the types of trauma reactions that occur after a sudden, random, arbitrary event and the reactions that occur when one is repeatedly traumatized over time in situations such as domestic violence, child abuse, hostage taking, or war.[9] Other studies have provided new understanding of stress reactions of crisis intervenors, victim assistance providers, and mental health professionals when they work with crime victims.[10] Although less well-developed, the research literature on efficacy of treatments for crime-related psychological trauma also has expanded.

Prior to 1982, there was virtually no systematic training available for mental health professionals on effective treatments for crime victims. The Society of Traumatic Stress Studies developed the first interdisciplinary curriculum on responding to traumatic stress in 1989.[11] This information is now included in the training curricula of some mental health and medical professionals, and postgraduate inservice training through workshops is much more available.

The passage of the Victims of Crime Act (VOCA) in 1984 had an important impact on improving mental health services for crime victims because state crime victim compensation programs were required to provide payment for mental health counseling in order to qualify for VOCA funding. Within a few years, most states amended their compensation statutes to include mental health counseling as an eligible benefit, providing considerable incentive for mental health professionals to learn how to provide effective treatment to crime victims.

As much as 10 to 20 percent of mental health care expenditures in the United States may be attributable to crime, primarily to victims treated as a result of their victimization. These estimates do not include any treatment for perpetrators of violence."

Victim Costs and Consequences: A New Look, 1996

The Office for Victims of Crime (OVC) has supported expanding mental health services for crime victims by funding important initiatives in education for mental health professionals and counseling for crime victims. These initiatives range from supporting assessment and counseling services for child sexual abuse victims on Native American reservations to funding crisis response teams to assist victims of major mass crimes such as the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City. In 1995, OVC provided funding to the Pennsylvania Coalition Against Rape to develop a curriculum on collaborative approaches to victim services for mental health and victim service providers.[12] In the critical area of financial support for victim counseling, OVC funded the National Association of Crime Victim Compensation Boards in 1991 to develop state-of-the-art guidelines on evaluation and payment of mental health counseling claims.

In addition, the National Institute of Justice provided substantial funding for the 1994 National Conference on Family Violence cosponsored by the American Medical Association and the American Bar

Association. Important recommendations were made at the conference to improve multidisciplinary criminal justice and health care approaches to family violence, including developing mental health referral sources and a communitywide assessment process that maximizes safety for all family members.

The Importance of Understanding and Treating Crime-related Psychological Trauma

Crime-related psychological trauma is a major public health and mental health problem for our nation. Because violent crime has been shown to increase both morbidity and mortality, violence and its aftermath have become mainstream public health issues.[13] Violent crime puts a large number of Americans at risk of debilitating mental health problems that can severely limit their ability to live productive, emotionally healthy lives. Victims with a history of victimization suffer more crime-related psychological trauma after experiencing a new crime than do victims without prior victimization.[14] Because of the sheer number of Americans suffering from crime-related mental health problems, their treatment is one of the most pressing issues facing the mental health community today.

Crime-related psychological trauma impairs the ability and willingness of many victims to cooperate with the criminal or juvenile justice system. At every key stage of the justice process—from contemplating making a report to police to attending a parole hearing—interacting with the system is stressful for victims and often exacerbates their trauma. When victims do not report crimes to police out of fear or are too terrified to testify, it is extremely difficult for the justice system to accomplish its mission.

Crisis Reactions and Short-term Trauma

Most crime victims suffer crisis reactions after serious crimes. They often experience shock and a sense of disbelief, thinking, "this can't be happening to me." Many describe high levels of physiological anxiety such as rapid heart rate and hyperventilation as well as emotional reactions such as feeling helpless, terrified, and extremely angry. These are common "flight or fight" responses that occur in dangerous situations. They may be accompanied by disorientation, confusion, shame, guilt, and grief.

Some victims survive the crime and the accompanying reactions with few lingering effects. More continue to experience the reverberations of crisis over the next few weeks or months. This is particularly true if the crime has substantially disrupted their day-to-day lives. Victims of violent crime may feel high levels of fear, anxiety, and general distress, disrupting their ability to concentrate on simple mental activities. Some become preoccupied with the crime, worry constantly about their safety and the safety of their family members, and become concerned that other people will not believe them or will think that they are responsible for what happened. Even more distressing for these victims, especially those who are harmed by members of their family, is that violent criminal acts destroy their belief that their world is safe and that the people they live, work, and go to school with can be trusted.

Acute traumatic stress disorder is one description of short-term trauma and reflects findings that indicate that for many people such symptoms subside within a month after victimization.[15] It is not unusual for memories of the event to disrupt victims' thoughts and sleep. They may have recurrent nightmares, become irritable, suffer outbursts of tears, feel estranged and isolated from loved ones, or be wary of any sudden, intrusive sensation.

With the help of strong social support and pre-existing lifetime coping skills, the intensity of traumatic reactions is likely to decrease over time. But it is not unusual for reactions to continue until individuals feel that their lives have stabilized and that they have regained a sense of safety and security in their world. Crisis reactions can also reappear at later times in their lives when another event triggers their memory of the original trauma.

Long-term Psychological Trauma

For some victims of violent crime and their families, psychological trauma may last for months or years. Research demonstrating that violent crime can produce long-term psychological harm has grown enormously since the publication of the President's Task Force Report in 1982.

Many victims of and witnesses to violent, highly stressful events develop symptoms that are referred to by the American Psychiatric Association as post-traumatic stress disorder, or PTSD. For victims of crime, these events may include sexual assault, physical attack, robbery, mugging, kidnaping, child sexual assault, observing the serious injury or death of another person due to violent assault, and learning about the violent assault or death of a family member or close friend.[16] Reactions to these events can be a destructive force in a person's life for a long time. They include:

- Persistent re-experiencing of the event, including distressing recollections, flashbacks, and dreams, and emotional and physiological reactions to anything that triggers an association.
- Persistent avoidance of things associated with the traumatic event and reduced ability to be close to other people and have loving feelings.

- Persistent symptoms of increased arousal, including sleeping disorders, outbursts of anger, an inability to concentrate on simple tasks, wariness, and highly sensitive startle responses.

- Significant distress or impairment in social, occupational, or other important areas of functioning.

While PTSD reactions generally have been acknowledged as common among victims throughout the world, it should be emphasized that cultural perceptions of threat and response to danger may affect how people respond to violent crime.

Research has indicated that rates of PTSD are much higher among those who have been victims of violent crime than among those who have been victims of other types of traumatic events. One such study found that the lifetime prevalence of PTSD was significantly higher among crime victims than among victims of other traumatic events. The same study found that crime victims who believed they would be killed or seriously injured during the crime were much more likely to develop PTSD than were victims whose crimes did not involve life-threatening injury.[17] Rates of PTSD appear to be higher among victims who report crimes to the criminal justice system than among nonreporting victims.[18] Importantly, research indicates that many crime victims with PTSD cannot recover without treatment and that some crime victims have PTSD for years after their victimization.[19]

Long-term crime-related psychological trauma is not limited to PTSD. Compared to people with no history of criminal victimization, victims of violent crime have significantly higher rates of major depression, suicide thoughts and attempts, alcohol and drug abuse problems, and anxiety disorders or dissociative disorders. While the complexities of psychological trauma are not completely understood, the interrelationship between symptoms of PTSD and other mental health concerns is reflected in the research surrounding Complex PTSD or the Diagnosis of Extreme Stress Not Otherwise Specified (DESNOS).[20] The symptoms of PTSD are included in the description of this phenomenon but it also includes symptoms relating to dissociation, anxiety, depression, and suicide. Victims of chronic abuse and violence may be more likely to exhibit these reactions than simple PTSD.

Counseling and Mental Health Interventions

The differences between immediate crisis reaction, short-term trauma, and long-term trauma are the foundation of the major types of interventions used by mental health providers when treating victims of crime. The interventions are not mutually exclusive, and the need for crisis intervenors, victim service providers, mental health professionals, and other healers to work together is critical in many cases.

Crisis intervention refers to the immediate counseling response to victims in the aftermath of a crime or traumatic event. The goals of crisis intervention are to reassure victims of their immediate safety and security, allow them an opportunity to express their reactions, assist them in reducing their immediate emotional distress, and provide them with information and assistance on what they can expect to happen next in their lives.

Posttrauma counseling describes interventions that provide longer term support to victims to help them better understand the psychological effects they are dealing with. Posttrauma counseling also helps victims develop skills and social or spiritual support to begin to cope with the victimization. The methods and tools mental health providers use in posttrauma counseling include cognitive-behavioral techniques, peer support groups, ritual and meditation, education, and physical and mental activism.

Posttrauma therapy refers to psychological or psychiatric interventions that typically involve clinical sessions with a mental health professional. Mental health professionals are trained in trauma-related reactions and may employ a number of therapeutic interventions.

Complex trauma therapy is still in its infancy stage. With new information and research emerging on the impact of chronic victimization, multiple victimization, and victims who have coexisting mental health problems, diagnosis, treatment, and interventions have become increasingly complicated. However, research being conducted by the Department of Defense-Health Services to identify the interrelationship between individual coping capacities, ordinary stress, latent and acute trauma reactions, and effective trauma treatment plans may create opportunities in the future.

The military has learned the importance of applying the principles of PIE - proximity, immediacy and expectancy to service members who have suffered from combat stress. Now we are doing our best to abide by the same principles in assisting individuals who are the victims of trauma during peacetime. Today, each individual command military community is setting up its own crisis response capability.

Commander
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Cultural Competency in Mental Health Counseling

According to Erwin Parsons, "All ethnically focused clinical, sociological, anthropological, and experimental studies converge to one central conclusion regarding ethnic America: Ethnic identification is an irreducible entity, central to how persons organize experience, and to an understanding of the unique 'cultural prism' they use in perception and evaluation of reality. Ethnicity is thus central to how the patient or client seeks assistance (help-seeking behavior), what he or she defines as a 'problem,' what he or she understands as the causes of psychological difficulties, and the unique, subjective experience of traumatic stress symptoms. Ethnicity also shapes how the client views his or her symptoms, and the degree of hopefulness or pessimism towards recovery. Ethnic identification, additionally, determines the patient's attitudes toward his or her pain, expectations of the treatment, and what the client perceives as the best method of addressing the presenting difficulties."[21]

Trauma, suffering, recovery, and healing are defined differently in different cultures. Asian cultures, for example, emphasize character building and purposeful and responsible behavior, rather than gaining insight or reducing symptoms. Native cultures emphasize restoring harmony among relations with the Great Spirit and Mother Earth when someone is victimized or harmed. The individual in these cultures does not strive for independent accomplishment, selfhood, or personal fulfillment apart from being a part of a family, clan, or community.

Many cultures do not isolate physical, emotional, and spiritual factors in health and illness. Trauma affects the whole person. Cultures therefore have different "idioms of distress." Southeast Asian refugees, for example, often complain about body dysfunction such as headaches or chest pains when experiencing depression. Asians in general experience and report psychosomatic stress.

Many cultures, including American Indian, Asian, Pacific Islander, and Latino cultures, depend upon shamans for healing. The concept of shaman is at least 20,000 years old and encompasses the idea of priest and healer. Shamanistic approaches are radically different from the dominant beliefs of Western physicians and mental health practitioners. Indigenous holistic healing practices are not "alternative approaches" but the traditional approaches of the majority of the world's people. In a nation as pluralistic and multicultural as the United States, it is crucial to recognize cultural differences in addressing the needs of crime victims.

Emerging Mental Health Issues for Victims of Crime

A number of issues of importance to meeting the mental health needs of crime victims have emerged over the past decade. These issues either were not addressed by the President's Task Force or have become more salient in today's society.

Repeat Victimization, Chronic Victimization, and the Cycle of Violence

In 1982, there was little acknowledgment that many people are victimized repeatedly during their lifetime, increasing their risk for crime-related psychological trauma and complex mental health problems. Studies show that a substantial number of crime victims have been victimized more than once, and that a history of victimization is associated with risk of subsequent violent assault.[22] Other research suggests that the risk of developing PTSD and substance abuse problems is higher among repeat victims of violent assault than among those who have experienced only one violent assault.[23]

Evidence also suggests that a history of victimization in youth increases their risk of involvement with delinquent peers and delinquent behavior.[24] Moreover, the involvement of youth with delinquent peers and substance abuse appears to increase their risk of victimization.[25] Another line of research has found that a history of child abuse and neglect increases risk of delinquent behavior during childhood and adolescence as well as the risk of being arrested for violent crime as an adult.[26]

Chronic victimization as a result of domestic violence, child abuse, or hostage taking also contributes to higher risks of mental health problems. Victims of chronic violence present particularly complex histories when they have not only been abused by loved ones or intimates but also been victims of stranger crimes. They, too, may present coexisting mental health problems, including problems developed during an individual's attempt to survive and to cope with the chronic violence.

The High Prevalence of Crime Perpetrated by Acquaintances

Since the release of the President's Task Force report in 1982, it has become increasingly clear that violent assault by a stranger is much less common than assault by people known to the victim. Child abuse victims, rape victims, physical assault victims, and homicide victims are all more likely to be attacked by someone they know well than by someone they do not.[27] Being attacked by a family member, friend, or acquaintance poses particular problems for victims in the criminal and juvenile justice system and creates special issues for them in counseling.

Victimization of Children and Adolescents

The focus of the President's Task Force report was on the adult crime victim. The extent to which America's youth are disproportionately victims of violence was not fully appreciated. Violence is a major problem for children and adolescents,[28] and research shows that a history of violent assault during childhood or adolescence increases risk for a host of major mental health problems such as PTSD[29] and substance abuse.[30] Treating violence-related mental health disorders in young victims requires special expertise, and because young people face unique problems in the criminal and juvenile justice systems, therapists should understand their special needs.

Other issues should be considered when treating the mental health needs of child victims. First, the complexity of problems child victims face often means that treatment must extend beyond brief intervention. This is particularly true if the goals of treatment are to support victims throughout the justice systems and child protective services process and to address prevention and other developmental issues. Second, crime-related psychological trauma is likely to be exacerbated at key developmental milestones in a child's life, and child victims require more treatment at those times. Third, although more research is needed on this issue, it appears that victimized girls are more likely than victimized boys to be victimized in the future, and victimized boys appear to be more likely than victimized girls to become physically aggressive. These important findings suggest the need for slightly different treatment approaches for girls and boys.

Confidentiality of Communications Between Victims and Their Counselors

A provision of the 1994 Violence Against Women Act directed the Attorney General to study and evaluate the manner in which states have taken steps to protect the confidentiality of communications between sexual assault or domestic violence victims and their counselors. The Act also required the development of model legislation that provides maximum protection within constitutional limits for the confidentiality of such communications. In 1995, the director of the Violence Against Women Office within the Department of Justice wrote about the need for such protection in a report to Congress entitled *The Confidentiality of Communications Between Sexual Assault or Domestic Violence Victims and their Counselors*:[31]

> A successful prosecution depends on the cooperation of the crime victim. Yet in many cases of sexual assault and domestic violence, a woman who has been attacked frequently finds herself victimized a second time when her case goes to court. This is particularly true when the victim receives counseling from a domestic violence or rape crisis counselor who often is not a licensed psychologist or psychotherapist, and lacks the testimonial privilege afforded to other professionals such as psychotherapists or psychologists in most states.
>
> In far too many cases, defense attorneys subpoena counseling records and call counselors as witnesses. The attorneys use the records to shift the court's focus from the crime to the victim's thoughts and comments regarding the emotionally devastating incident. Often, victims face the threat that their most intimate feelings will be disclosed in open court and become a matter of public record.
>
> Sexual assault and domestic violence victims must be able to communicate freely with their counselors, secure in the knowledge that the private thoughts and feelings they reveal during counseling will not be publicized as a result of reporting the crime.

According to the report, as of December 1995, 27 states and the District of Columbia had enacted statutes that protect, to differing degrees, confidential communications that arise from the relationship between sexual assault and domestic violence victims and their counselors. Some state statutes provide an absolute privilege in which disclosure is not permitted under any circumstances. Others provide a semi-absolute privilege in which disclosure is permitted only under specified circumstances that serve the public interest. Still others provide a qualified privilege in which disclosure is permitted after certain requirements are met or balancing tests are employed. State courts have reached different conclusions about the constitutionality of statutes providing absolute or semi-absolute privilege in these cases.

Federal legislation to protect the confidentiality of victim-counselor communications has not been enacted, and the United States Supreme Court has not addressed the issue of whether absolute testimonial privilege is constitutional.[32]

Impact of Health Care Reform on Availability of Mental Health Counseling for Crime Victims

Massive changes are occurring in health care financing and health care delivery systems. These changes include reduced direct federal and state funding for mental health services such as mental health centers, increased managed care in the private sector, proposed reductions in Medicaid reimbursement for health care services including mental health, and the formation of large health care networks that emphasize primary care and de-emphasize specialty care. These changes are generating enormous financial pressures to reduce costs, which is most often accomplished by reducing services. This trend is likely to continue.

Until comprehensive health care reform is achieved that specifically includes coverage of mental health counseling for crime victims, the availability of quality mental health services for crime victims is likely to be reduced, putting more pressure on mental health counselors to seek funding from crime victim compensation and other financial resources.

Recovered Memories

Much controversy has been generated about the extent to which memories of abuse during childhood can be repressed, sometimes for long periods, and later recovered. In a few cases, therapists have been accused of falsely implanting repressed memories, which some refer to as "false memory syndrome."[33] However, other professionals object to the term, saying that there is no evidence to suggest that the syndrome exists. This controversy has resulted in attacks on the legitimacy of certain types of therapy conducted with adults who disclose that they have been physically or sexually abused as children. Some therapists whose adult clients remembered having been assaulted as children during the course of treatment have been sued by parents accused of assault.

Evidence of repressed memory exists outside the crime victims field. For example, scientific data on memory repression during World War II documented hundreds of cases of repressed memories in troops returning from battle. In many of the cases, psychologists diagnosed soldiers with what would now be classified as PTSD. The psychologists' historic reports show that many of the soldiers could not remember traumatic experiences that others in their platoon described. Once they were able to recall the traumatic experiences, their PTSD symptoms disappeared.[34]

Judith Herman, author of *Trauma and Recovery,* points out that "people subjected to prolonged, repeated trauma develop an insidious, progressive form of post-traumatic stress disorder that invades and erodes the personality .... Through the practice of dissociation, voluntary thought suppression, minimization, and sometimes outright denial, they learn to alter an unbearable reality." She goes further with the concept of suppression, pointing out that clinicians who work with severely traumatized patients often become suspect among their colleagues. "Regression, dissociation, and denial," she writes, "are phenomena of social as well as individual consciousness."[35]

A survey about child abuse was sent to 500 American Psychological Association members and practitioner-oriented divisions; 330 members (56 percent women) returned the questionnaire. Childhood abuse (sexual or nonsexual) was reported by 22 percent of the sample and 41 percent of those reported a period of "forgetting." Overall, 47 percent of the participants who had experienced "forgetting" were able to corroborate the abuse. Those who recovered their memories in therapy were just as likely as those whose memories were triggered outside of therapy to be able to corroborate their abuse.[36]

The courts have varied reactions to repressed memory. In three high-profile cases decided in 1997, one court found the theory of repressed memory to be validated and generally accepted by recent scientists. But in the other two cases, the courts expressed reservations given the state of scientific knowledge and controversy in the area.[37]

Promising Practices in Crime-Related Mental Health

Innovative programs have been developed that provide excellent mental health services to victims with crime-related psychological trauma. Crime victims involved with the criminal and juvenile justice systems face special problems, and effective mental health programs for them must do more than just provide counseling services. Most of the programs discussed in this section use a multidisciplinary approach to ensure that victims are informed about how the system works and are prepared to deal with the stress of participating in the system. These programs work closely with crime victim compensation programs and victim assistance agencies to help victims access other services, and they make a special effort to ensure that mental health professionals serve victims as advocates, helping them get the information and assistance they need.

Several programs include an educational component in which student mental health professionals receive specialized training in how to provide effective mental health treatment to crime victims. This training is important because of the shortage of mental health professionals with specific expertise in assessment and treatment of crime-related psychological trauma. By providing training to student mental health professionals and continuing education to practicing clinicians, these programs are increasing the cadre of mental health professionals who can provide competent care to crime victims.

A final attribute of these programs is that most have a research component. Research is important because it provides new knowledge about the scope of violent crime, the nature of crime's impact on mental health, and the effectiveness of mental health interventions.

- The National Crime Victims Research and Treatment Center (NCVC) at the Medical University of South Carolina in Charleston, South Carolina, provides specialized mental health services for crime victims of all ages and their families. NCVC trains mental health professionals about effective mental health treatment for crime victims and works closely with local police agencies, prosecutor's offices, rape crisis centers and battered women's shelters, the state crime victim's assistance network, and the state crime victims compensation agency. NCVC staff identify physically injured crime victims hospitalized in the medical center and provide them with information about the criminal justice system, typical psychological trauma experienced by crime victims, crisis counseling, and referrals for outpatient treatment. NCVC also conducts research on the scope and mental health impact of violent crime.

- Among the comprehensive array of programs developed by Victim Services in New York City are several mental health services. Its licensed mental health center provides goal-focused individual counseling and trauma reduction and supportive group services for victims of violent crime, including domestic violence, sexual assault, incest, and robbery, as well as homicide survivors. At precincts and in courts and community offices, the agency offers crisis intervention and stress education and management services to victims shortly after the crime is committed. Counseling is also available in schools and shelters for children who witness crimes, including domestic violence, and a crisis response team has been established to respond to victims of natural and community disasters. At one of the agency's nine community offices, the counseling services are provided by social work students and other mental health professionals who work for free in exchange for the opportunity to train with victims. At all sites and in every setting where mental health services are offered, staff are available to address the practical needs of victims by, for example, helping them navigate the court system, obtain crime victim compensation, arrange for child care, or repair or replace locks.

- The Harborview Sexual Assault Treatment Center in Seattle, Washington, one of the oldest treatment and research programs in the nation, has been a national leader in developing comprehensive mental health services for sexually abused children and adults. The program has improved the quality of mental health services for victims of sexual assault through training to physicians and mental health professionals.

- The Rape Treatment Center (RTC) at Santa Monica-UCLA Medical Center provides comprehensive services for sexual assault victims 24 hours a day, 7 days a week. In the 1970s, RTC pioneered a model for victim care that integrated psychological interventions into the emergency medical care process. This model was disseminated throughout the United States via a training film produced by the National Institute of Mental Health. RTC also offers long-term counseling for victims and their significant others, as well as advocacy, accompaniment, information and referrals, and other support services. To enhance the treatment of victims wherever they turn for help, RTC provides professional training for medical, mental health, law enforcement, criminal justice, judiciary, and school personnel, including a course on victim issues for every new recruit at the Los Angeles Police Department Training Academy. Stuart House, RTC's facility for child victims, enhances collaboration with other victim service providers. The facility has an onsite multidisciplinary team, including police, prosecutors, and child protection personnel, who investigate abuse allegations and minimize "system" trauma to child victims. Stuart House also provides comprehensive treatment services and expert pediatric forensic examinations.

- The Crime Victim Recovery Project at the University of Missouri at St. Louis works closely with police and victim assistance agencies to address crime-related psychological trauma. Through the program, crime victims are provided with state-of-the-art cognitive-behavioral treatment. Similar to NCVC and the Harborview Center, the program operates specialized training programs for mental health professionals.

- In New Haven, Connecticut, the Child Study Center at the Yale University School of Medicine and the New Haven Department of Police Services have developed a collaborative program to address the psychological impact on children and families of chronic exposure to community violence. The Child Development-Community Policing program brings together mental health professionals and police officers to intervene with children who are victims, witnesses, or perpetrators of violence. The program also emphasizes cross-training by police and mental health professionals.

- The National Organization for Victim Assistance (NOVA) has trained mental health providers all over the country as part of their crisis response training. NOVA's crisis response teams include trained mental health providers who work together with law enforcement, medical professionals, victim advocates, religious leaders, and others to provide assistance to communities in the aftermath of major crimes and acts of terrorism.

Victim Support Groups

Many victims who have participated in victim support groups have found that interaction is an important part of their healing process, as the voices of four support group members indicate:

> I don't know what I would have done without them.... I was in the pits of depression for weeks ... [and] thought seriously of suicide. They literally saved my life.
>
> You can only pretend so long....You act as if you can deal with it when you really can't.... They were there when I needed them.... They made me feel the reality of it.
>
> It's a wonderful experience to be around those you know can truly understand how you feel because they feel the same.
>
> It seemed as though no one could really understand what was happening to me until I became involved with the group...
> They know because they've been through it.

Support groups for all types of victims have emerged during the past 15 years. Sometimes these groups are facilitated by trained mental health professionals; other groups are led by crime victims themselves. Many victims say that participation in victim support groups was a significant factor in their healing process.

Parents of Murdered Children (POMC) and Mothers Against Drunk Driving (MADD) have hundreds of chapters throughout the country, and many of them offer victim support groups. In a survey of nearly 300 MADD members whose loved ones were killed or seriously injured in a drunk driving crash, the survivors said that support groups aided their emotional recovery by providing a setting to share their feelings, keep the memory of their loved one alive, and exchange vital information about assistance and compensation programs with others who were experiencing similar trauma.[58]

Victim Activism

Taking part in efforts to make their communities and nation safer and more just may also help victims recover from the emotional trauma of violent crime. Victims of crime have found many ways to become active in the aftermath of crime. On the community, state, and national levels, victims are working to change the justice system and raise public awareness about the consequences of crime and violence. For many victims who have fought to enact the thousands of victims' rights laws, the opportunity to stand up for the rights of other victims of crime has helped them overcome feelings of helplessness. By participating in Neighborhood Watch and sexual assault prevention programs, warning parents and their children about the dangers of drunk driving, or helping to educate children and incarcerated offenders about the impact of crime through participation in victim impact panels, victims feel a sense of greater control. Their actions help to ensure that what happened to them will be less likely to happen to others.

> *Since this has happened to me I feel a very strong need to help and fight for others. This is not a passing fling. I feel very strong about these issues and I will continue to strive for them.*
>
> A victim of crime

Recommendations from the Field for the Mental Health Community

MENTAL HEALTH COMMUNITY RECOMMENDATION FROM THE FIELD #1

The mental health community should develop linkages with crime victim compensation, victim assistance programs, and criminal and juvenile justice agencies to ensure that victims have access to adequate counseling or mental health treatment at each stage of the justice process, from the time the crime occurs through incarceration, pardon, parole, and appeals. Federal and state laws should be amended to ensure that government covers mental

health counseling costs for crime victims throughout the criminal justice process and beyond in cases of long-term psychological trauma.

The President's Task Force identified key stages of the criminal justice process but did not specifically address crime victim's needs for counseling at each stage of the process. An offender's parole, probation, and release can be as stressful for victims as the trial itself, and many jurisdictions have overlooked counseling services during these traumatic periods.

The Victims of Crime Act should be amended to clarify that compensation and assistance programs can be used to fund mental health counseling for crime victims at all key stages of the criminal justice process. States should ensure that victims are able to receive services or reimbursements from state compensation programs to cover counseling costs related to their participation in the criminal and juvenile justice process. Victims may need to re-enter counseling many months or even years after the crime to help them deal with the sentencing or release of an offender.

Model programs provide excellent examples of how mental health professionals can work closely with justice system and victim assistance agencies. Information about these programs should be widely disseminated with descriptions of how they are organized and staffed, the services they provide, how they are financed, and how they have addressed the practical issues of interacting with the criminal justice system and victim assistance agencies. Exchange programs should be established to encourage mental health providers to visit model programs and observe how they work.

MENTAL HEALTH COMMUNITY RECOMMENDATION FROM THE FIELD #2

Legislation should be enacted in every state and at the federal level to ensure that designated victim counseling is legally privileged.

Crime victims are much less likely to be candid with their counselor or seek counseling at all if they know that anything they confide is discoverable by defense attorneys. Without candid discussion, good therapy for victims is difficult, if not impossible.

The 1995 *Report to Congress* of the Violence Against Women Office offers two model statutes that present alternative privileges in recognition of the differences in state constitutions, case law, and statutes. Governors, state legislatures, and Congress should give serious consideration to these model statutes and adopt appropriate legislation.

MENTAL HEALTH COMMUNITY RECOMMENDATION FROM THE FIELD #3

Research on the mental health consequences of victimization and treatment of crime-related psychological disorders should be expanded.

Although a great deal is known today about the psychological impact of crime victimization, more research is needed. To provide valuable data on an important consequence of criminal victimization, the National Crime Victimization Survey should be modified to include brief measures of psychological trauma that individuals suffer in response to violent crime. This information will help victim service providers, mental health practitioners, and justice officials better understand and meet the many needs of victims caused directly by trauma.

Considerably more is known about effective mental health treatment of adults than about what works with child victims and their families. More research is needed to give therapists a solid foundation of knowledge about which techniques are most effective with child victims and witnesses. Leading child abuse experts David Finkelhor and Lucy Berliner have strongly recommended that further studies be conducted to establish clearly the efficacy of treatment for sexually abused children and to learn more about the optimal length of treatment, the problem of treatment dropouts, and other important treatment-related issues that have not been researched sufficiently.[39] (For more discussion of this topic, see chapter 5.)

In addition, more research is needed regarding effective treatment methods for children who witness violence. A recent study found that 43 percent of male adolescents and 35 percent of female adolescents had witnessed some form of violence firsthand, and that 15 percent of youth who had witnessed violence developed PTSD, compared to 3.3 percent of surveyed youths who had not.[40] In the 1997 report, *Family Violence in America—Breaking the Cycle for Children Who Witness*, the International Association of Chiefs of Police (IACP) points to numerous studies indicating the alarming number of children who witness violence in their homes and in the larger community. In one recent study, 40 percent of students in the 6th, 8th, and 10th grades in low-income areas of New Haven, Connecticut, reported witnessing at least one violent crime in the previous year.[41] Nearly one-third of students in the 5th and 6th grades from low-income areas of Washington, D.C. reported having witnessed a shooting, while 17 percent reported having witnessed a murder.[42] The IACP report also reported that more than 3 million children in the United States each year are at risk of witnessing domestic violence in their homes.[43]

MENTAL HEALTH COMMUNITY RECOMMENDATION FROM THE FIELD #4

Initial and continuing education programs for mental health professionals should include education on the crisis, short-, and long-term trauma issues arising from victimization and appropriate mental health treatment for crime victims and their families, including counseling options available to them. Training also should include information regarding the cultural diversity of victims, stressing the importance of responding with sensitivity to ethnic and cultural differences.

> *Property damage and physical injury are readily apparent, easily understood consequences of violent crime. The psychological wounds sustained by victims of crime, and the best means of treating such injuries, are less well understood. If this severe suffering is to be relieved, mental health professionals must lead the way.*
>
> **1982 Final Report of the Presidential Task Force on Victims of Crime**

Addressing educational needs was one of the key recommendations of the 1982 Task Force for mental health professionals. Although some progress has occurred in the past 15 years, there is still a need for education in two critical areas: (1) academic curricula to educate student mental health professionals in psychology, social work, psychiatry, nursing, and counseling in appropriate mental health treatment for crime victims and their families, and (2) inservice continuing education for practicing mental health professionals about effective treatment for crime victims.

Counseling and other kinds of physical, emotional, and spiritual support interventions should be available to meet the specific needs of individual victims. Victims should be given options for counseling, including support groups, traditional healing, supportive or trauma counseling, and mental health therapy, depending on their needs and desires. Mental health professionals should also be identified who have proficiencies in dealing with the special issues of repeat victimization, chronic victimization, and coexisting mental health problems. Mental health professionals need to be encouraged to make their services available to victim service providers in emergencies as well as during standard office hours.

Training programs should include information that will help practitioners work more effectively with culturally and ethnically diverse populations. Research studies, treatment programs, and professional education on the impact of crime on victims should address the various ways cultures respond to trauma, including mental health intervention and counseling, healing and purification rituals, shamanistic and holistic practices, and indigenous and transcultural approaches.

Mental health providers should be aware that techniques other than traditional Western methods are being utilized in the counseling of crime victims. One such technique is Morita Therapy, an Eastern psychotherapy that has been used in the United States for the past 30 years to assist crime victims. The Victim Services Unit of the Waco, Texas, Police Department trains its crisis intervention teams in Morita methods, and domestic violence counselors and shelter staff in Georgia, sexual assault therapists in Florida, and child abuse workers in Texas are using Morita to better understand and respond to victim trauma.

MENTAL HEALTH COMMUNITY RECOMMENDATION FROM THE FIELD #5

Interventions and counseling services should be developed for victims with multiple mental health problems. Special attention should be given to individuals suffering from repeat or chronic victimization and individuals with limited access to financial, social service, and health care resources.

New knowledge about repeat victimization, chronic victimization, and the cycle of violence has several implications for providing appropriate mental health counseling for crime victims. One implication is that mental health professionals should include crime prevention and substance abuse prevention in their work with victims to decrease the risk that new victimization or substance abuse problems will occur. A second implication is that mental health professionals should not assume that the crime they are treating is the only one the victim has experienced. To be sure that a victim is being treated appropriately, mental health providers must construct a careful crime victimization history. A third implication is that providing effective mental health counseling to victims may well be an effective way to reduce the risk of future victimization, substance abuse, delinquency, and violent behavior.

Victims with multiple mental health problems pose particular challenges for the criminal justice, juvenile justice, mental health care, and health care communities. Because these victims often have few resources and are difficult to treat, they tend to fall between the cracks. Brief mental health treatment can help them with their short-term crime-related problems, but these victims require comprehensive interventions to help them achieve long-term recovery. More programs should be established that offer coordinated, intensive, multiagency services that include case management as well as mental health treatment.

MENTAL HEALTH COMMUNITY RECOMMENDATION FROM THE FIELD #6

Greater emphasis should be placed on mental health treatment for child victims and witnesses, including preventive interventions that focus on reducing the risk of subsequent mental health problems, antisocial and violent behavior, substance abuse, and revictimization.

Victimization increases children's risk of a host of mental health problems including anxiety disorders, major depression, antisocial behavior, substance abuse, and violent behavior. It also increases their risk of revictimization. Mental health professionals who work in schools or with children should be trained about the impact of victimization and effective treatment approaches.

Treating the mental health needs of child victims requires mental health professionals taking their unique situation into consideration. Child victimization cases often involve protective services in addition to the criminal or juvenile justice system. Counselors must understand these systems well and be able to interact with them in the child's best interests.

MENTAL HEALTH COMMUNITY RECOMMENDATION FROM THE FIELD #7

Insurance companies and managed health care companies should provide coverage for targeted mental health treatment for crime victims.

Insurance companies and managed health care companies need to understand the benefits of specialized mental health treatment for crime victims and should provide special coverage for such treatment. Cognitive behavioral procedures and other therapies have been successful in treating victims with crime-related psychological trauma. These treatment methods should be recognized by service providers in the mental health, victim assistance, crime victim compensation, and criminal justice communities.

MENTAL HEALTH COMMUNITY RECOMMENDATION FROM THE FIELD #8

Mental health providers should recognize the healing benefits that participation in support groups can provide for many crime victims and provide referrals to these programs when appropriate.

In reconstructing their lives in the aftermath of victimization, many victims join support groups composed of individuals who have experienced a similar trauma. Support groups provide a mutually supportive atmosphere for victims to discuss their feelings. By talking with others, victims work to overcome their feelings of low self-esteem, isolation, powerlessness, fear, and anger. They also demonstrate to each other that they are neither abnormal nor guilty for the crime.

There are many outstanding victim support and activism programs across the nation, including those offered by such respected organizations as Parents of Murdered Children, Mothers Against Drunk Driving, and the Stephanie Roper Committee. Domestic violence shelters, rape crisis programs, and child abuse treatment programs also offer support groups, as do Parents Anonymous and Parents United, who offer support for families who want to break the cycle of abuse.

We need to come up with another name that does not carry the negativeness of the term 'victim.' What about all of us who now feel empowered and consider ourselves survivors?

A survivor of domestic violence

MENTAL HEALTH COMMUNITY RECOMMENDATION FROM THE FIELD #9

Mental health providers should help victims of crime become involved in community service programs when this type of work can assist in the victim's healing process.

For many victims of crime, community activism plays a major role in facilitating their healing. Studies have shown that community involvement by victims not only provides important opportunities to educate school children as well as criminal justice and allied professionals, but also helps many victims to heal. It should be noted, however, that activism is not useful for every victim. Opportunities for community service include working in schools to help decrease victimization, assisting other victims by supporting self-help groups, advocating for reforms in public policy, and speaking on victim impact panels to educate others about crime's impact on individual lives.

The Mothers Against Drunk Driving Victim Impact Panel Program, for example, was designed to encourage victims of drunk driving crashes to tell offenders about the devastating physical and emotional injuries their actions have inflicted. A formal research evaluation of this program funded by the National Institute of Mental Health (NIMH) showed that participation has reduced victims' psychological trauma and improved their well-being. Further research is needed to determine which aspects of the program are most beneficial to healing: giving victims the ability to share their stories with others, giving victims the opportunity to share their stories with an audience they feel needs to hear it, or both.

MENTAL HEALTH COMMUNITY RECOMMENDATION FROM THE FIELD #10

Mental health professionals should assist in identifying secondary victims of crime and ensure that they receive appropriate counseling and mental health services.

Many people dramatically affected by crime are overlooked. Sometimes referred to as "secondary victims of crime," they include individuals in the background of traumatic events such as police officers and firefighters and classmates of children who have been kidnaped or murdered.

A recent example of secondary victims were the more than 12,000 rescue workers and volunteers who responded to the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, 85 of whom were injured and one of whom died. Two-thirds reported handling bodies or body parts; one-third felt that they were in much or extreme danger; and one-half spent 10 days working in the carnage, the majority of that time directly at the bomb site. The mental health community estimated that as many as 20 percent of the rescuers would eventually need mental health care. Indeed, one police officer who responded to the bombing committed suicide on the first anniversary of the tragedy.

Moreover, much of the Oklahoma City community suffered as secondary victims. An estimated 387,000 people knew someone who was killed or injured, and 190,000 people attended funerals. A survey projected that 60,000 people were at risk for developing mental health problems and 15,000 more were at high risk.

Public education is lacking about the impact of crime on secondary victims. As a result, many secondary victims do not seek assistance for their serious psychological problems. The mental health community should help to provide crucial education about the needs of secondary crime victims and establish programs to help them heal.

> *Through activism, many crime victims become less isolated and begin to reconnect with others, which is an important stage in their own healing from trauma. Speaking out is a tool for empowerment for victims and their communities.*
>
> Lucy N. Friedman,
> Executive Director,
> Victim Services,
> New York, New York

MENTAL HEALTH COMMUNITY RECOMMENDATION FROM THE FIELD #11

Mental health professionals should work with multidisciplinary teams of other trained crisis interveners, including victim service providers, law enforcement officers, emergency medical responders, and clergy, to respond to violent incidents and help communities prepare crisis response protocols.

Mental health professionals have unique skills and training that enable them to play a leadership role in helping to prepare communities to respond to incidents of mass violence. They should use this training to help schools and other institutions and businesses to prepare action plans for responding to victims in the aftermath of a major criminal incident. The importance of establishing a crisis response capability is highlighted in several other sections of this report.

There are thousands of trained crisis interveners with a wide range of backgrounds. They include mental health professionals, victim service providers, law enforcement officers, emergency medical responders, and clergy. These trained individuals should work collaboratively to respond to crises.

MENTAL HEALTH COMMUNITY RECOMMENDATION FROM THE FIELD #12

Reciprocal referral systems should be established among victim service providers, crisis intervenors, counselors, mental health professionals, and justice practitioners.

Victims often find it useful to have access to different types of assistance in their efforts to reconstruct their lives. Supportive counseling may be helpful, but victims may also need therapeutic intervention. Victim service providers should work with mental health professionals to identify professionals who are trained, available, and willing to provide therapy to victims. Mental health professionals may find that some victims respond to therapy but would also benefit from support groups or additional crisis intervention at critical points in the criminal justice process. Mental health professionals should work with victim service providers and others to identify what programs and services are available to meet the needs of victims. Communities and the justice system should establish referral systems with protocols and procedures and keep them updated on a continuing basis.

MENTAL HEALTH COMMUNITY RECOMMENDATION FROM THE FIELD #13

Community mental health centers should participate in communitywide networks of victim services and crisis response planning, protocols, and services.

Many community mental health centers are designed to primarily assist clients with chronic mental health and substance abuse problems. However, many centers also maintain crisis hotlines and may be a natural point of contact for crisis response efforts in times of emergencies. Community mental health centers can also be a valuable source of referral information for victims with trauma issues and coexisting mental health problems.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

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CHAPTER 9

The Legal Community

Members of the legal profession play a variety of critical roles in the criminal and juvenile justice systems. They serve as judges, prosecutors, defense counsel, and victim advocates. The President's Task Force on Victims of Crime focused its discussion of the legal profession to members of the bar who function within the criminal justice system, including bar committees addressing issues within the criminal justice system.[1] Most members of the legal profession, however, serve in positions outside of the justice system in private law firms, corporations, law schools, and government offices. These lawyers frequently come into contact with crime victims in their work. Trusts and estates lawyers encounter domestic violence victims or survivors of homicide. Civil rights lawyers encounter victims of assault, rape, and hate crimes. Personal injury lawyers encounter victims of drunk driving crashes and other personal crimes.[2] Moreover, a growing crime victims bar has emerged as civil litigation involving crime victims becomes an increasingly well-established and recognized specialization. These lawyers need to understand the dynamics of victimization, and they should know how to refer their clients to victim services that are appropriate for their needs.

> *Attorneys have an obligation to their clients, to their profession, and to justice itself. They are obligated to use their expertise to guarantee that the system does not stray from the principle that lies at the heart of the law: justice for all who seek it.*
>
> **President's Task Force on Victims of Crime Final Report, December 1982**

Over the past 15 years, attorneys and the organized bar associations to which they belong have begun to recognize that they are important conduits to victim services. Attorneys have worked to improve access to the justice system for victims; they have developed programs that help victims respond to the crimes that affect them; and they have explored options within the legal system that can expand the relief available to victims of crime.

The American Bar Association (ABA), the largest membership organization for attorneys in the United States, established a Victims' Committee within its Criminal Justice Section in 1976 and encouraged state and local bar associations to set up similar committees that would ensure victims a voice in policymaking by lawyers.[3] While some bar associations followed suit, efforts at the national and local level have increasingly moved toward identifying and assisting specific groups of crime victims whose needs within the legal system are quite distinct. For example, victims of domestic violence may need immediate assistance to obtain a temporary restraining order and long-term assistance to work out divorce and custody issues. Victims of drunk driving crashes may need long-term assistance with criminal and civil actions, and victims of child abuse may need a range of legal assistance in family, juvenile, and criminal court. Each legal area demands specialized training and knowledge of the law. The past 15 years have seen the growth of bar-sponsored programs that target such specialized areas. Lawyers are reaching out to form and participate in alliances with other professionals working to meet the needs of crime victims. Thus, while victims' committees have not proliferated, lawyers' responsiveness to the actual needs of victims has.

This section highlights these promising efforts of the legal community to respond to the needs of crime victims and makes recommendations for future action.

Private and Legal Services Attorneys Serving Crime Victims

Many lawyers have devoted their careers to serving victims of crime through nonprofit legal services programs around the country that provide free or low-cost legal assistance.

- In the Navajo Nation, DNA People's Legal Services, Inc., provides free legal and other services to crime victims from the Navajo and Hopi Nations. Through its nine offices in Arizona, New Mexico, and Utah, the organization serves victims in some of the most remote and impoverished places in America. The group's Family Violence Prevention Project has been instrumental in creating safe homes, support groups, shelters, and crisis counseling programs for victims, and it has drafted arrest protocols for the Navajo Nation police force and culturally appropriate domestic violence laws for the Navajo and Hopi Nations. DNA lawyers and other staff have established and maintained an effective network with community service providers to help domestic violence victims.
- The New York City Gay and Lesbian Anti-Violence Project in New York City provides counseling, advocacy, and legal representation to men and women who have been victims of anti-gay or anti-lesbian violence, sexual assault, domestic violence, HIV-related violence, and other forms of crime.

The 340,000-member American Bar Association has been working for nearly a quarter of a century to improve the plight of crime victims and witnesses.

Susan Hillenbrand,
American Bar Association
Criminal Justice Section

Many other organizations in communities across the country provide critically needed legal services to crime victims.

- The California Crime Victims Legal Clinic helps victims of violent crime and their families understand their legal rights and of the criminal and civil justice systems. The Clinic advocates in court at all stages of legal proceedings, including for victims' rights to restitution and victim impact statements, assesses cases for possible civil and other claims, makes appropriate referrals, and files amicus briefs in significant cases affecting victims' legal rights. The Clinic is also active in legislative issues of importance to crime victims and is available as a media resource for crime victims' rights issues and for families of victims of violent crime.

- AYUDA is a community-based agency in Washington, D.C. that provides legal, advocacy, and educational services to low-income Latino and foreign-born families. In addition to providing direct legal services, AYUDA provides free legal advice, consultations, referrals, translation, and other related legal services to foreign-born victims of domestic violence. AYUDA also assists pro bono attorneys and government and community agencies on issues related to domestic violence and immigration law.

Additionally, individual attorneys have established practices that specialize in serving crime victims. They include domestic violence attorneys, child abuse and neglect lawyers, civil rights lawyers who take on hate and bias cases or police brutality cases, and a variety of civil attorneys who specialize in personal injury, premises liability, and insurance cases, to name a few. Others represent crime victims in civil matters and provide representation to victims during the course of criminal proceedings to ensure that they are informed of and offered a meaningful opportunity to exercise their rights.

As the number of lawyers involved in helping crime victims has grown, national organizations have emerged to support the work of attorneys helping crime victims.

- The National Association of Counsel for Children (NACC) is a nonprofit professional membership association dedicated to quality representation and protection of children in the legal system. NACC trains and educates children's attorneys and advocates for improvements in public policy and the legal system. In addition, it is dedicated to the development of the field of children's law as a legal specialty. Its membership includes nearly 2,000 attorneys, judges, and other professionals who take a multidisciplinary approach to representing the interests of the children they serve.

- Similarly, the Carrington Victims' Litigation Project (CVLP), an initiative sponsored by the National Victim Center, helps crime victims who are seeking remedies in the civil justice system find professionals who can refer them to resources to aid physical and emotional healing. CVLP also helps attorneys, experts, consultants, and victim service professionals provide sound and sensitive representation. CVLP includes a membership arm, the Coalition of Victim Attorneys and Consultants (COVAC), that coordinates the efforts of attorneys who represent crime victims in civil matters and professionals from other fields who serve as experts or consultants in civil cases involving crime victims. COVAC members have access to CVLP's Civil

Justice Case Law Database, which contains over 9,000 case summaries of reported appellate decisions relating to civil litigation by crime victims. They also receive updates on the field of victim litigation through a monthly case digest and a quarterly law journal.

Increasing Victim Access to the Justice System

Many barriers prevent the full participation of victims in the criminal and juvenile justice systems, including lack of information, lack of resources, and physical, cultural, and language barriers. The legal profession has been at the forefront of creative efforts to overcome these barriers.

- The Asian Pacific American Bar Association (APABA) in Washington, D.C., working with Asian-American groups in the D.C. metropolitan area, responded to a rash of violent robberies and homicides of Asian-American storekeepers in 1993 by instituting the No More Violence—Reclaiming Our Communities project. Language barriers and lack of information in the community about the crimes were making it difficult for both prosecutors and victims to move forward with investigations and prosecutions. APABA, in conjunction with the Department of Justice and The George Washington University, developed a videotape that explained how the D.C. criminal justice system works and used vignettes with Asian Americans to encourage Asian-American victims and witnesses to cooperate in the judicial process. The video, available in Mandarin, Vietnamese, and Korean, has been distributed widely in the D.C. Asian-American community.[4]

- The Pro Se Divorce Clinic for Domestic Violence Victims has operated in New York City since 1994, empowering battered women who are unable to afford legal representation to leave their abusive partners and work toward self-sufficiency. Law firms host the clinic's classes, offering pro bono a conference room, refreshments, and the services of paralegals and word processors to prepare the women's divorce papers. A pro se divorce manual has been developed by the clinic and provided to the law firms on computer disk for easy input into their word processing systems. Paralegals team with domestic violence victims to guide them through the pro se divorce process, assist them in drafting their divorce papers, and prepare their final court papers using the law firms' word processing system.

Assisting Victims of Violence and Abuse

Over the past 15 years, the private bar has become increasingly active in providing legal services to specific victim populations that are prevented from participating fully in the justice system because of a lack of information and resources. A number of bar associations and

As professionals whose work is bound up in the workings of the nation's justice system, members of the legal community carry a special responsibility to ensure that crime victims have the services and support they need. Whenever legal professionals work to provide services and support for the victims of crime, they make a contribution that enhances the public trust in the justice system. Because that trust is the ultimate source of the system's efficacy, it is difficult to imagine a more important contribution that could be made.

Reginald L. Robinson
Acting Director
Office for Victims of Crime

private firms have concentrated their efforts on children, developing mentoring programs, adopting schools and, significantly, identifying ways in which the resources of the profession can be marshaled to assist victims of child abuse.

- Founded in 1994 by attorneys working for Aetna Life & Casualty in Hartford, Connecticut, Lawyers for Children is a nonprofit organization that recruits and trains volunteer lawyers to represent abused and neglected children in juvenile court proceedings. The group also implements and supports peer-based mediation programs in middle and high schools. The advocacy component is uniquely multidisciplinary: lawyers are trained in legal, child development, and other key psychosocial issues that affect child victims of abuse and neglect. Lawyers for Children assigns a social worker to assist each case's legal team, which provides the child with an adult voice in court and an advocate in the system of social services outside of court. The organization operates in Miami, Florida, and Washington, D.C., and plans to expand to other cities.[5]
- The Juvenile Law Committee of the State Bar of Georgia created the Children's Legal Advocacy Coalition (CLAC) to advocate and provide effective representation for abused and neglected children in Georgia. Advocates working with CLAC represent and work with a child until he or she reaches age 18, rejoins his or her family, or is legally adopted after termination of parental rights.[6]

Lawyers have also become increasingly involved with domestic violence victims as activists and attorneys recognized that women trapped in battering relationships were often further imprisoned by a web of legal issues that kept them dependent upon their abuser. Bar associations have developed pro bono programs in which volunteer lawyers handle domestic violence victims' cases at no charge, and law schools have instituted clinical programs that offer representation and advocacy to victims of domestic abuse.

- Project L.I.F.E. (Legal Initiative for Freedom and Empowerment) in New York City was begun in 1995 to galvanize the efforts of private law firms to meet the legal needs of battered women. At the time, the Mayor's Commission to Combat Family Violence identified contested divorce as the most difficult legal service to obtain for battered women. Waiting lists were extremely long and few publicly funded legal services offices provided assistance. In response, 14 corporate law firms signed on as charter members of L.I.F.E. Each firm made a commitment to accept five cases and to recruit another firm to the project. Within a year, more than 70 women were being served by the program.

In 1994, the ABA established a Commission on Domestic Violence, which is developing a national model for communities responding to domestic violence. The Commission is comprised of medical, legal, and law enforcement professionals, and includes among its goals public education, legal and judicial reforms, and encouraging a coordinated community response to domestic violence.[7]

Legal groups at the local level have also taken action to help victims of domestic violence. Clinical programs in law schools are providing free representation to domestic violence victims while at the same time training a new generation of lawyers to be victim advocates. A 1997 ABA report identified dozens of law school clinics that provide legal assistance to survivors of domestic violence, and many of these programs have developed innovative approaches to meeting domestic violence victims' needs.

- The Domestic Violence Advocacy Project at the George Washington University Law Center in Washington, D.C., emphasizes an interdisciplinary approach. Courses are co-taught by a professor of law and a clinical psychologist, and case supervision and consultation includes input from the psychologist. Students handle civil protection order cases and work with local public defenders' offices on battered women's self-defense cases. Students also coordinate their work with the George Washington University Hospital's emergency room, and are on call to respond in cases of suspected domestic violence to act as advocates for the women and inform them of the legal action they can take to protect themselves. Other students in the clinic work on broader law and policy reform initiatives to improve the treatment of domestic violence victims in the justice system.

- Students in the Domestic Violence Law Clinic at the University of Arizona, College of Law in Tucson, Arizona, provide representation to women seeking orders of protection, temporary child custody, and child support. Students also assist members of the nearby Pascua Yaqui Tribe in obtaining and upholding orders of protection through the Tribal Court. In addition, students provide representation to victims of domestic violence in the criminal courts, acting either as advocates for their rights from initial appearance through sentencing or as defenders of victims charged with domestic violence offenses who were acting in self-defense.

Other attorneys work to address the problem of gun violence, assisting communities and individuals affected by gun violence.

- Following the 1993 shooting at the firm of Petit & Martin in San Francisco, California, volunteer attorneys, including survivors of the shooting, created the Legal Community Against Violence (LCAV) project. LCAV worked to raise funds and secure pro bono legal services to help victims and survivors of that shooting pursue civil actions for damages. LCAV has remained active, serving as a clearinghouse to help victims of gun violence in California find volunteer lawyers to provide representation in their cases. LCAV also works with grassroots organizations in communities victimized by gun violence and local and city governments to address gun violence through appropriate local ordinance and regulations.

Helping Communities

Too often, the criminal justice system's response to criminal activity—the investigation, prosecution, and incarceration of individual offenders—does not reach the roots of the activity. New people simply pick up the illegal activity, continuing the victimization. This is particularly true with drug trafficking. Recognizing that vacant or abandoned properties in cities provide fertile ground for drug trafficking, lawyers have joined forces to use civil legal remedies to close crack houses and to address neighborhood nuisances that are contributing to drug problems.

- "Operation Crackdown" of the Young Lawyers' Section of the Bar Association of the District of Columbia uses a network of trained volunteer attorneys to provide free legal assistance to local community organizations victimized by illegal drug activity. Active throughout the District of Columbia, Operation Crackdown attorneys work closely with community members to address and resolve problems in a neighborhood. Operation Crackdown represents organizations, rather than individuals, allowing people victimized by drug trafficking to come forward and take action without fear of retaliation. Volunteer attorneys coordinate with local prosecutors, the Metropolitan Police Department, and local officials to identify and use all administrative and judicial remedies possible to meet the community's needs.[8]

Nonprofit legal clinics, such as the Community Law Center in Baltimore, Maryland, are providing similar services.[9] In addition, communities are forming alliances among prosecutors, citizens' coalitions, and local bar associations to address the crime and violence that accompany illegal drug trafficking. For example, the Alliance for a Safer Greater Detroit has used the skills of volunteer lawyers and legal services organizations to eliminate crack houses and other dangerous buildings from crime-plagued neighborhoods.[10]

Recommendations from the Field for the Legal Community

LEGAL COMMUNITY RECOMMENDATION FROM THE FIELD #1

The legal community should expand its commitment of resources to victims to ensure that the barriers to meeting crime victims' needs are removed.

Lawyers are uniquely situated to provide crucial information and assistance to a range of crime victims. Lawyers have an obligation to give to their community and should be encouraged to do so by lending their skills, time, and energy. The programs outlined in this report provide good models for communities, law firms, corporate legal departments, and individual lawyers to examine when exploring how best to assist crime victims. In particular, programs that target special population groups should be fostered. Initiatives should include expanded volunteer lawyer programs, impact litigation on victims' issues, and litigation and nonlitigation projects that address the needs of language minorities, the disabled, and those with limited financial resources.

LEGAL COMMUNITY RECOMMENDATION FROM THE FIELD #2

Bar associations and members of the legal community should produce and distribute informational materials, including videotapes, to help crime victims understand court proceedings and how to pursue their rights in the justice system.

In many instances, victims simply need information to help them understand the legal system and determine whether and how to exercise their legal remedies. Lawyers should use their expertise to help educate crime victims by assisting in the preparation of informational materials that will help victims understand the court process and how to represent themselves. Law firms can also contribute the pro bono services of paralegals and support staff to help crime victims exercise their rights in court.

LEGAL COMMUNITY RECOMMENDATION FROM THE FIELD #3

Bar associations and members of the legal community should develop multidisciplinary alliances and networks among attorneys and other service providers within the community to identify and meet the needs of crime victims.

Lawyers' work with victims of crime has been most effective when a multidisciplinary approach is taken. Lawyers should reach out to allied professionals in cases in which they are advocating for victims of crime. In particular, prosecutors, civil attorneys who represent crime victims, and victim service providers should build coalitions to ensure that adequate referrals and options for networking are available to crime victims. Victim service providers also can serve as expert consultants in civil and criminal matters and work closely with crime victims and their attorneys to develop and present their cases at trial. More multidisciplinary membership organizations such as the Coalition of Victim Attorneys and Consultants and the National Association of Counsel for Children should be established to enhance training and to facilitate communication among victims, lawyers, and other service providers.

LEGAL COMMUNITY RECOMMENDATION FROM THE FIELD #4

Bar associations and members of the legal community should develop information about victims' rights and programs and disseminate it widely in the community.

Lawyers have been active in creating and supporting innovative programs for victims of crime, including those highlighted in this report. The majority of crime victims, however, have little opportunity to learn of these services. Lawyers and bar associations can take advantage of events such as "Law Day" (held the first week of May each year in communities across the country) to expand outreach and awareness of victim assistance programs by holding community forums and disseminating literature in appropriate languages. Additionally, they should work with community leaders to develop strategies for publicizing services and programs that assist crime victims.

LEGAL COMMUNITY RECOMMENDATION FROM THE FIELD #5

Legal professionals who serve in the criminal, juvenile, and civil justice systems should work with one another and with victim service providers to adequately inform crime victims of all of their legal options, including civil litigation.

In both the criminal and civil justice systems, cooperation between prosecutors and civil attorneys benefits crime victims who are involved in litigation. Furthermore, failure to cooperate can severely impact the outcome of some proceedings. Brochures, referrals to victim support networks, and informational materials describing possible civil litigation options should be made available to victims when they initially contact prosecutors. Bar associations of criminal and civil legal professionals should develop joint programs and training on the intersection of criminal and civil litigation for crime victims. Similar information should be provided by victim service providers, and these professionals should develop networks with civil and criminal justice attorneys to facilitate the referral of crime victims with legal questions or needs.

LEGAL COMMUNITY RECOMMENDATION FROM THE FIELD #6

Attorneys in the private sector who, due to the nature of their practice, have frequent contact with crime victims (for example, personal injury attorneys, insurance attorneys, and premises liability attorneys) should be encouraged to develop or join coalitions of attorneys who serve crime victims in the civil justice process.

Specialized continuing legal education classes, as well as other products and services such as case digests and legal periodicals that deal specifically with civil litigation involving crime victims, should be developed as a means of increasing membership in the crime victims bar and enhancing the quality of representation for victims.

LEGAL COMMUNITY RECOMMENDATION FROM THE FIELD #7

Bar associations should establish victims' issues committees to address issues in the criminal and civil justice systems, and they should ensure that the members of the committees represent victims' interests.

Echoing the *Final Report* of the 1982 President's Task Force, this recommendation strives to institutionalize the representation of victims' views in all activities related to the criminal justice system. Similar attention should be paid to addressing issues that affect crime victims who are litigating cases in the civil justice system. To do this, some bar associations have established victims' committees, an approach that has been effective in ensuring that victims' issues are addressed broadly and included in every dialogue on changes and enhancements to the criminal and civil justice system.

LEGAL COMMUNITY RECOMMENDATION FROM THE FIELD #8

Bar associations and law schools should offer courses on victims' rights and issues, incorporating multidisciplinary curriculums.

In addition to attorneys working within the justice system, lawyers in many areas of practice are likely to encounter crime victims among their clients. Educating law students about victims' rights and the basic concepts of victimology will enable students once they become attorneys to better fulfill their mandate to seek justice for all. Providing continuing legal education on serving victims to practicing lawyers will enhance their ability to discharge their duties to their clients. Increasing lawyers' awareness of victims' rights and sensitivity to victims' needs will be of immeasurable benefit to crime victims, whether they come into contact with the criminal justice system as a witness or seek civil legal assistance as a result of the crime. The American Bar Association has developed model curriculums on victims' rights, and legal institutions around the country offer courses on victims' issues.

In a recent publication entitled *When Will They Ever Learn? Educating to End Domestic Violence,* the American Bar Association Commission on Domestic Violence noted the importance of training law students regarding domestic violence issues:

> Domestic violence has a tremendous impact on the legal profession. Whether or not lawyers realize it, domestic violence permeates the practice of law in almost every field. Corporate lawyers, bankruptcy lawyers, tort lawyers, real property lawyers, criminal defense lawyers, and family lawyers, regularly represent victims of perpetrators of domestic violence. Criminal and civil judges preside over a range of cases involving domestic violence as an underlying or a hotly contested issue. Failure to fully understand domestic violence legal issues threatens the competency of individual lawyers and judges, as well as the legal profession as a whole . . . .
>
> The vast majority of telephone calls received by the American Bar Association Commission on Domestic Violence indicate that lawyers, too, are not representing victims of domestic violence according to the standards dictated by the profession. Callers report that many family lawyers fail to address a client's safety needs where there is a history of domestic violence, or refuse to introduce evidence of the violence in court, despite the legal consequences. This hesitation to handle domestic violence cases, or to address domestic violence issues when they arise, stems in part from a lack of legal training. It is time

for law schools to fill this desperate gap in legal education by incorporating domestic violence law into core curricula courses, upper level courses, and clinical programs.[11]

LEGAL COMMUNITY RECOMMENDATION FROM THE FIELD #9

Bar associations and members of the legal community should ensure adequate representation and involvement of minority, multicultural, and multilingual attorneys in order to respond more effectively to diverse populations victimized by crime.

Crime victims face many barriers to full participation in the criminal and civil justice system. Lawyers are an important link to providing crime victims a voice in the system. It is essential that lawyers have the capability to respond to the diverse needs of victims who are also language and cultural minorities. A central part of this response should be the hiring of trained multicultural and multilingual lawyers or other legal professionals in prosecutors' offices, victim service providers' agencies, and legal organizations, associations, and private law firms.

LEGAL COMMUNITY RECOMMENDATION FROM THE FIELD #10

Publishers of case reporters, legal compilations, and treatises should expand their issue coding and indices to include crime victim-related categories.

Currently, publishers of legal references and case reporters do not include victim-related issue codes or indices, making it extremely difficult to conduct legal research on cases and issues of concern to crime victims. An extension of these coding systems would enhance the ease and accuracy of legal research while encouraging legal scholarship in the field.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

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CHAPTER 10

The Educational Community

Schools and universities today face serious crime and victimization problems. For too many students, teachers, and administrators, school is no longer a safe haven. Daily threats to the safety of students and staff, including violent assaults, are commonplace in many communities. Each time students are threatened or injured in school, they are doubly victimized—by the crime itself and then by the disruption of their ability to concentrate and learn.

> *When our children must pass through metal detectors to go to school, or worry that they'll be the victims of random drive-by shootings when they're playing in the swimming pool in the summertime, when parents are imprisoned in their own apartments behind locked doors, when we can't walk the streets of our cities without fear, we have lost an essential element of our civilization.*
>
> President William J. Clinton,
> August 11, 1993

Crime in Schools

Several studies have documented the pervasiveness of crime and violence in our nation's schools. In a 1991 report entitled *School Crime: A National Crime Victimization Survey Report,* the U.S. Department of Justice found that more than 400,000 students nationwide were estimated to have been victims of violent crimes at school during an 8-month period.[1] Equally alarming, the study found that during the same period, 430,000 students had taken guns, knives, brass knuckles, razor blades, spiked jewelry, and other objects to school to protect themselves from attack or harm. In 1993, a survey found that half of students in grades 6 through 12 had witnessed some type of crime or victimization at school, and about one of every eight students reported being personally victimized at school.[2]

School violence plagues teachers as well. The National Institute of Education found in 1993 that nearly 5,200 secondary school teachers are physically attacked at school each month, with 1,000 suffering injuries serious enough to require medical care.[3] The same study found that at least 130,000 teachers each month are victims of theft.[4] After examining more than 1,000 teachers working in what they themselves described as "combat zones," Alfred Bloch, Assistant Clinical Professor of Psychiatry at the University of California, Los Angeles, observed: "What we are seeing is very much akin to the kind of stress that soldiers in World War II and the Korean War had experienced." Teachers in the study described symptoms of fatigue, headaches, gastrointestinal problems, cardiovascular problems, and hypertension.[5]

Crimes committed most on school grounds include assaults, robbery and extortion,[6] but even what is often characterized as harmless schoolyard bullying can have a serious adverse impact on students, teachers, and parents. One in ten students is victimized by a bully, often leaving permanent emotional scars that children carry into adulthood. Institutional tolerance can be equally damaging for the bully as well. Research indicates that a child who bullies others has a one in four chance of having a criminal record before age 30, compared with a one in 20 chance for children who do not bully their peers.[7]

The issue of weapons, especially guns, in schools has also received national attention. In one tragic incident in January 1989, a man carried an AK-47 semi-automatic assault rifle onto an elementary school campus in Stockton, California and opened fire, killing five children and injuring 29 students and a teacher. In May 1992, four students were slain and 11 injured when an ex-student entered a high school in Olivehurst, California, and opened fire.[8] On October 1, 1997, a 16-year-old boy in Pearl, Mississippi stabbed his mother to death, drove to his high school with a rifle hidden under his trench coat, killed his former girlfriend and another girl, then wounded seven other students.[9] Reports of such terrifying incidents are all too common today, and they have a dramatic impact not only on students where the crisis occurred but also on parents, teachers, and the community at large.

The alarming rise of gang activity among students is well-documented as well. From the 1920s on, gang violence has increased and intensified in American schools, and today, it is characterized by notorious senselessness.[10] A study conducted by the U.S. Department of Justice found that there were approximately 1,000 known gangs with a combined membership of 50,000 operating in the United States by the end of the 1970s.[11] By the late 1980s these numbers increased to approximately 5,000 gangs with an estimated membership of 250,000.[12] While some school administrators have been reticent to acknowledge the presence of gang activity in their schools, students provide a much different picture. In a nationwide study of school violence in 1991, 15 percent of students surveyed reported that gangs were active on their campus, and 16 percent indicated that they had witnessed gang members engaging in threatening acts against a teacher.[13] In the 79 U.S. cities with populations over 200,000, 91 percent reported having a gang problem that had spread from the streets into areas traditionally considered safe havens, such as schools.[14] The mere presence of gangs in a school increases tensions among students and teachers. If they are not rooted out, gangs will almost certainly lead to an increase in violence, fear, and drugs.[15]

The 1982 *Final Report* of the President's Task Force on Victims of Crime recognized the important role that educators can play in assisting victims and preventing crime. The Task Force urged school authorities to take the following immediate action:

- Develop guidelines for statistical tracking and prompt reporting of violent crimes committed in schools, crimes committed against school personnel, and the possession of weapons or narcotics.

- Check the arrest and conviction records for sexual assault, child molestation or pornography offenses of anyone applying for work in a school.

- Develop and provide courses on the problems, needs, and legal interests of victims of crime.

- Be mindful of their responsibility to make students aware of how they can avoid being victimized by crime.

Since the release of the 1982 report, attention to school violence has increased greatly, and scores of programs have been developed to protect the safety of students, teachers, and administrators. In 1984, the National School Safety Center (NSSC) was created by presidential directive as a partnership among the Office of Juvenile Justice and Delinquency Prevention in the Department of Justice, the U.S. Department of Education, and Pepperdine University. NSSC's mandate is to promote safe schools and help ensure quality education for children nationwide. NSSC serves as a clearinghouse for current information on school safety issues and has produced important documents on addressing violence in the schools, including a comprehensive guide to school safety law to help educators implement campus violence prevention programs.

School used to be a place of safety, but today's reality provides no such assurance of security. The magnitude of school crime and violence cannot be ignored.

School Safety Update,
National School Safety
Center News Service,
September 1993

In 1987, the final report of the President's Child Safety Partnership recommended that child safety be made a part of all school curricula and that communities and schools make a concerted effort to involve youth in programs that improve their well-being.[16] More recently, Congress passed the Safe and Drug Free Schools and Communities Act in 1994, authorizing the creation of the Safe and Drug Free Schools Program through the U.S. Department of Education. The program is the federal government's primary vehicle for reducing school violence through education and prevention activities. Its wide-ranging initiatives work toward meeting the seventh National Education Goal, which states that, "By the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning."[17]

School-Based Victim Assistance Programs

Many schools are forced to respond to incidents such as shootings, kidnapings, sexual assault, and hate crimes that occur on school grounds. How a school responds to such a crisis affects the healing and the education of its students. Schools cannot work in isolation from their communities, however, and assistance must be developed with the involvement of families and the community. Comprehensive, culturally sensitive school-based victim services can help schools suffering chronic trauma better respond to students, teachers, and other staff who are victimized.

A number of schools have established victim service programs offering crisis intervention counseling and stress reaction training as well as curricula on victim assistance and violence prevention. These programs are helping students and teachers better respond to stressful events in their lives and in the lives of those around them.[18]

- Victim Services in New York City, the largest victim assistance provider in the country, has responded to school violence through the creation of the Safe Harbor program, which grew out of a school-based victim assistance and peer mediation program. Safe Harbor is a comprehensive school-based victim assistance/violence prevention program designed to help students, faculty, and families cope with the violence they struggle with in their lives, not only at school but at home and on the streets. The program consists of five components: the PEARLS (People Empowered About Real Life Situations) victim assistance/violence prevention curriculum, individual counseling, parent involvement and teacher training, structured group activities including focused discussions and informal activities, and schoolwide anti-violence campaigns. An evaluation of Safe Harbor funded by the Centers for Disease Control and Prevention found that the program reduced violent behavior in the school, especially when students participated in more than one component of the program.

- Many schools and law enforcement agencies have teamed up to create School Resource Officers (SRO) programs in communities across the country. The programs place specially trained police officers in schools to create and maintain safer learning environments. SROs act as counselors and mentors as well as school law enforcement officers. While SROs are primarily "peacekeepers," their duties include giving students guidance in and out of school and serving as a link for students who seek additional student-related services.

- With funding from the Office for Victims of Crime, the Tariq Khamisa Foundation has developed an interactive program, the Violence Impact Forum, for underserved victim populations in elementary and middle schools in San Diego, California. The program gives young victims an opportunity to engage in meaningful dialogue with adult and peer "panelists" who have experienced the trauma of violence firsthand and seek alternatives to violence.

- The United Federation of Teachers in New York City runs a Victim Support Program (VSP) to assist school staff members who are victims of school-related crime. Program services include outreach to victims, psychological counseling and referrals for long-term treatment, training for social service providers and school administrators for dealing with victims and trauma, and school site visits to provide assistance in resolving a school's ongoing trauma. VSP also offers an array of practical assistance and advocacy services such as helping with procedures and forms and accompanying victims to court and medical appointments.

- The Fort Peck Assiniboine and Sioux Tribes have stationed a juvenile officer in their public school system who is trained to facilitate conflict resolution, ensure student safety, and address child abuse and neglect. The officer helps the school system provide immediate intervention, assessment, and referrals to appropriate agencies when incidents of violence or intimidation occur.
- Mothers Against Drunk Driving (MADD) published *Death at School,* a publication to assist school teachers, counselors, and administrators after the death of a student, a student's family member, or a teacher. As a public service, MADD mailed the guide to every K-12 school in the United States.

In response to the growing number of youth gangs, there has been a proliferation of intervention and prevention programs that attempt to reduce gang-related activities among students. Schools have implemented a range of measures including targeting students who are vulnerable to gang recruitment for special assistance through peer counselors, support groups, mentoring, conflict resolution, and tutoring; educating all school staff on how gangs develop and how to respond to them; offering special programs for parents of gang members; monitoring youth who are not enrolled in school but who "hang out" on or near school property; offering education programs for students about gangs and their destructiveness; establishing and enforcing codes to prohibit the display of gang colors and the use of beepers or cellular phones; removing graffiti; expanding afterschool, weekend, and summer youth programs; and providing students with regular opportunities for individual and group discussions about their experiences in school.

Crime on College and University Campuses

Few issues affecting colleges and universities captured media attention more dramatically in the last decade than violent crime. Headlines of major newspapers across the country described violent incidents on campuses in California, Pennsylvania, Texas, Minnesota, Virginia, and Florida, among others. On a Florida campus, five students were murdered by a serial killer. On a Southern California campus, three students were sexually assaulted by a serial rapist. One observer wrote that widespread reports of campus violence "put to rest the long-cherished notion that colleges and universities are somehow cloistered enclaves—sanctuaries far removed from the threat of crime that haunts the rest of us."[19]

Campus violence civil litigation emerged in the mid-1980s as a relatively new and formidable legal strategy to address the problem of campus crime. Awards ranging from $50,000 to $2 million for victims of assault and rape have shaken universities, attracted Congressional and media attention, and forced schools to examine the quality of security they provide and their response after a crime occurs.

One tragic case that focused national attention on campus crime involved the torture, rape, and murder of 19-year-old Jeanne Ann Clery in her dormitory room at Lehigh University on April 5, 1986. Following the conviction and sentencing of the woman's murderer, also a university student, Howard and Connie Clery filed suit against the university for negligence in failing to take reasonable action to protect their daughter from foreseeable harm. The amount of the settlement was not made public, but the university agreed to improve security throughout the campus, particularly in dormitories. Following the settlement, the Clerys formed Security on Campus, Inc., an organization dedicated to bringing the problem of violent crime on college campuses to the attention of those who most need to know: applicants, students, faculty, and staff. Their crusade has had widespread results, including the passage of legislation in Pennsylvania in 1988 to address campus crime, followed by similar legislation in other states and at the federal level.

> *I was sexually assaulted by two students. The incident was never reported to the local or state police by the campus police. Nor were the men reprimanded. They are still walking free around campus.*
>
> A victim

In the early 1990s, heightened concern about the safety of students on college campuses led to the passage of two federal laws: the Campus Security Act and the Campus Sexual Assault Victims Bill of Rights. The Campus Security Act, passed in 1990, requires that institutions publish and distribute an annual report describing security and law enforcement policies, crime prevention activities, procedures for reporting crimes on campus, and campus crime statistics. The Campus Sexual Assault Victims Bill of Rights, passed in 1991, requires institutions of higher education to develop and publish as part of their campus security report policies regarding the prevention and awareness of sex offenses and procedures for responding after a sex offense occurs. A key point in the statute is the clear responsibility assigned to university officials. They are required to inform students of their rights, provide them with clear information about how to report sex offenses, and ensure that students know about the medical, legal, and psychological assistance available to them if they become a victim. The Department of Education is responsible for the enforcement of both statutes. An institution's failure to comply could mean the loss of federal funds, including student loan money.

These federal laws raised public awareness of the prevalence and impact of crime on college campuses. Campus law enforcement officials report that colleges have increased resources for security and improved or clarified relationships with local police or sheriff's departments. In addition, many universities have developed or expanded crime victim assistance programs on campus and established more formal ties with off-campus victim assistance programs.

- In Orlando, Florida, the University of Central Florida Police Department has established a Victim Services Unit that employs two full-time victim advocates. The advocates are available to the university community 365 days a year, 24 hours a day, to provide programming and direct support for victims of crime.
- In Ithaca, New York, Cornell University has established a victim advocacy program that provides free, confidential assistance to any member of the university community who has been the victim of a serious crime on or off campus. Its primary focus is to assist victims of assault, rape and other sex offenses, and bias-related crimes. The program functions through the Office of the University Ombudsman and works closely with local service agencies such as Ithaca Rape Crisis, the Suicide Prevention and Crisis Service, the Task Force for Battered Women, and the Child Sexual Abuse Project. In addition, the University requires all varsity student athletes to take a class on sexual assault.
- In Los Angeles, the Women's Resource Center at UCLA provides free, confidential crisis counseling for sexual assault and domestic violence related issues to any UCLA student, regardless of when or where the assault occurred. Trained staff answer questions and refer students to the many services available to them. The center provides referrals to address a variety of resources in the community for medical, psychological, legal, and housing needs.

School and University Based Education About Victimization

Schools and universities have a unique role in helping all students, teachers, and staff understand and appreciate the rights and needs of victims of crimes. School-based instruction about victim issues will produce adults who are better informed about the needs of crime victims in their communities. A wide range of initiatives have been undertaken in recent years to educate students as well as faculty and staff.

- With funding from OVC, the National Organization for Victim Assistance and the Education Development Center have developed a curriculum for young crime victims called "Healing Hearts/Mending

Minds." The curriculum was developed to provide educators and adolescents themselves with tools and skills to help young victims heal.

- The Rape Treatment Center at Santa Monica-UCLA Medical Center has developed a sexual assault prevention education program for secondary schools that reaches more than 20,000 adolescents each year. The program's curriculum includes participatory exercises that enable students to practice effective communication and self-protection skills. The program also offers "private time" for students who wish to seek counseling for personal victimization experiences.

- In 1996, OVC awarded Promising Strategies and Practices for Professional Education grants to two organizations. The Allegheny Research Institute in Pennsylvania received funding to conduct a national survey of professional schools' course offerings relevant to victims of crime. The Institute's findings revealed that professional education about crime victims' rights and services is offered in a limited number of schools. The second stage of the project was awarded to Victim Services, Inc., in New York to survey five states to determine if mandatory educational requirements about crime victims are included in the professional education of medicine, social work, psychology, and other allied professions. Based on the findings of both surveys, Victim Services is developing a multidisciplinary academic curriculum to educate practitioners who interact with crime victims.

Including the voices of victims in our educational efforts both empowers them and provides us with a powerful tool for increasing public understanding of the impact of criminal violence.

Gail Abarbanel
Director
Rape Treatment Center
Santa Monica-UCLA
Medical Center

- Also with OVC funding, the Victim Assistance Legal Organization, in partnership with California State University-Fresno, and the Medical University of South Carolina, developed a college-level Victim Assistance Academy on victim's issues for advocates in the victim assistance field and allied professions. The Academy's rigorous 45-hour curriculum introduces students to the basic concepts of victims' rights and services and examines new developments in the field. The curriculum, which is offered each year at several universities around the country simultaneously through distance learning technology, allows students to earn undergraduate credits from California State University-Fresno. The curriculum has been incorporated into numerous victimology courses and is used widely in state trainings.

- Recognizing the critical role of professional education in preparing graduates to be a part of the state's strategy to reduce violence, abuse, and harassment, the Minnesota State Legislature earmarked funding in 1993 to establish the Higher Education Center Against Violence and Abuse. The center focuses on three areas: working with state and national organizations to develop higher education programs that prepare professionals to provide safety and services to victims of violence; conducting research projects to find ways to end violence; and serving as an international resource on violence and abuse issues to higher education institutions, community-based programs, and professional organizations.

A number of colleges and universities have begun to offer academic courses on victims' issues as part of their undergraduate curriculum. Courses range from topic specific areas such as family violence and child abuse to general courses on victimology and victims' rights.

In 1985, California State University-Fresno (CSUF) became the first university in the nation to develop and conduct a program of study in victim services. Today it offers an undergraduate degree in victimology, a graduate degree with a specialization in victimology, and a month-long summer institute on Victim Services. In 1999, in partnership with the University of California, CSUF will offer the nation's first doctorate program in victimology.

Several other academic institutions are offering unique programs. The University of New Haven in Connecticut offers a program in Victim Services Administration through its Center for the Study of Crime Victims' Rights, Resource, and Remedies. Washburn University in Topeka, Kansas offers a multidisciplinary Victim Assistance Program and in 1998 will provide an undergraduate degree in victim/survivor studies. Michigan State University, Southwestern Missouri State, and Florida State University also offer courses in victimology and victims' rights.

Other educational programs targeting specific professionals who work with crime victims—criminal justice, health, mental health, clergy, and the bar—are mentioned in separate sections of this report.

It is important for academic institutions to recognize their responsibility to provide a strong academic foundation for future professionals in the field of victims' rights and services by offering a broad range of courses, undergraduate and graduate degree programs, and research opportunities.

Harvey Wallace,
Chair, Department of
Criminology,
California State
University-Fresno

Prevention Strategies

The educational community has a responsibility to prevent crime and ensure the safety of students and school staff. As the 1982 President's Task Force recommended, school authorities should check the arrest and conviction records of anyone applying for work in a school who would have regular proximity to students for sexual assault, child molestation, or pornography offenses. This is now required by statute in 21 states.[20]

In addition, colleges must take basic measures to prevent victimization such as installing lighting and emergency phone systems, providing shuttle and evening escort services for students, locking dormitory doors, controlling access to buildings, and implementing crime watch programs and 24-hour security patrols.

The high risk of victimization for youth and perceptions that most violence is caused by youth have led many communities to mobilize youth to help prevent violence.

- Teenagers in 40 states have participated in Teens, Crime, and the Community (TCC), a unique education and action program to educate teens about their risk of victimization and offer them strategies to make their lives and their communities safer. Created by the National Crime Prevention Council and funded by the Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice, TCC has worked with young people in more than 500 schools, community centers, and juvenile justice facilities since 1985. Examples of youth-led TCC projects are launching a child abuse prevention campaign, "adopting" younger classes to teach them about the dangers of alcohol and other drug abuse, and making presentations at local churches and civic organizations.

- The Kessler Institute for Rehabilitation has developed a violence prevention curriculum called Rise Above It, which is taught by individuals paralyzed as a result of violent acts. The program's mission is to increase a student's ability to control violent behavior by helping them develop and practice creative alternatives to violence. The curriculum has been presented to 3,500 students in the Newark, New Jersey school system.

- Mothers Against Drunk Driving (MADD) has initiated several programs to involve students in the fight against underage drinking and impaired driving—the cause of thousands of deaths and injuries among our nation's youth each year. In May 1997, one high school student from each of the 435 congressional districts was selected to attend MADD's National Youth Summit on Underage Drinking. During the 3-day event in Washington, D.C., the student delegates developed recommendations for preventing underage drinking and presented them to lawmakers. In another MADD initiative, Youth in Action, student-led teams across the country work to affect public policy, media, and law enforcement with the ultimate goal of reducing the number of traffic fatalities among young people by 25 percent within 5 years. MADD has also developed a Poster-essay contest for students in grades 1 through 12.

- The U.S. Senate designated November 6, 1997, as a National Day of Concern About Young People and Gun Violence. On that day, students took part in activities across the country to raise awareness about youth gun violence, including a national campaign calling for students to sign a pledge that they will never carry a gun to school, never resolve a dispute with a gun, and try to use their influence with their friends to keep them from resolving disputes with guns. The day received support from organizations and elected officials nationwide, including the American Federation of Teachers, the National Education Association, the National PTA, the American Medical Association, and the National Council of Churches.

- Campus Outreach Services was started by a student in 1990 after she was assaulted on her college campus. The organization brings speakers on date rape and sexual assault to colleges and high schools across the country. Speakers include survivors of sexual assault, sexual assault peer counselors, victims' rights experts, and victim advocates. The organization offers educational programs for resident advisors in dormitories, school counselors, administrators, peer educators, health center staffers, and student leaders. The program has also developed a guidebook entitled *Sexual Assault on Campus: What Every College Student Should Know About Protecting Victims, Providing for Just Adjudication, and Complying with Federal Laws.*

Recommendations from the Field for the Educational Community

EDUCATIONAL COMMUNITY RECOMMENDATION FROM THE FIELD #1

Schools should establish comprehensive programs to assist students, faculty, and staff who are victimized by crime or who witness violence. These programs should be coordinated closely with local crime victim assistance programs and law enforcement agencies.

The creation of school-based victim service programs is proving to be an effective first step toward addressing victimization in schools. Comprehensive school-based initiatives should be implemented for all students in grades K-12, and they should respond to chronic trauma in everyday life as well as violent incidents—from schoolyard bullying to gun violence. To be comprehensive, victim assistance programs must include written protocols for handling cases, including reporting crimes to law enforcement, referring victims to medical and mental health treatment, and coordinating with local victim assistance agencies.

Each school should develop a victim assistance action plan that focuses on the immediate (1 to 4 days after the incident), intermediate (4 to 7 days after the incident), and long-term (7 days to several weeks and throughout various phases of the criminal justice system) needs of crime victims.[21] In particular, crisis counseling services for youth victims and witnesses to violent crimes should be made available in school districts with gang problems. The integrated mediation and

We must keep our focus on ending the violence. Sit down with community leaders, principals, PTA presidents, and the doctors in the trauma units who are struggling so hard to protect the children and mend their communities, and use your power to reach children in a helpful and supportive way.

Secretary of Education
Richard Riley,
Thomas Jefferson
Middle School,
February 1, 1995

violence prevention programs developed by Victim Services, Inc., in New York City can serve as a model for schools in this effort. In addition, school-based victim service programs should involve families and the community in educational activities.

EDUCATIONAL COMMUNITY RECOMMENDATION FROM THE FIELD #2

Schools should incorporate into their core curricula age-appropriate education about the impact of victimization, the availability of victim services, and victim rights information, including basic information about the criminal and juvenile justice systems.

School-based curricula should address a broad range of victim issues such as appropriate measures for intervention, the rights and services victims are entitled to receive, and information about how the criminal and juvenile justice systems operate. Schools should introduce students to issues related to family violence, child abuse, and incest at an early age, and they should teach them about specific types of crime victimization including sexual assault, drunk driving, family violence, gang violence, and hate and bias crimes. Schools should utilize victim impact panels and classes as important educational methods to educate students about victimization, and teachers should invite crime victims to give guest lectures in classes dealing with these issues.

EDUCATIONAL COMMUNITY RECOMMENDATION FROM THE FIELD #3

Crime prevention strategies should be taught to students in every grade, beginning in preschool, and schools should involve youth as peer educators about victimization and crime prevention.

School-based education and prevention programs dealing with crime should be available to all preschool and school-age children. Government, the private sector, and the media should support innovative campaigns to inform parents and teachers about steps they can take to prevent children from becoming victims of crime. Moreover, teens are an enormous pool of untapped energy, talent, and enthusiasm. They should be involved as peer educators to teach younger children about crime prevention and victimization. For example, Victim Services, Inc., has developed a program called "Generation NeXt" to provide a vehicle for young people to learn leadership skills to prevent violence in their homes, schools, and communities. The program trains young people to be peer educators on conflict resolution, victim assistance, and multicultural communication.

EDUCATIONAL COMMUNITY RECOMMENDATION FROM THE FIELD #4

Schools should implement procedures to help identify missing and exploited children who may be enrolled in their educational systems.

Each year, missing and abducted children are enrolled in schools around the country, many by parental abductors. Schools should require that the names of new student enrollments be forwarded to the National Center for Missing and Exploited Children and state clearinghouses that keep records of missing children.

> *My daughter was once a happy, high spirited, secure teenager with good grades and was popular among her friends. One day when my husband and I were not at home a neighbor and acquaintance pushed her into a shed, knocked her down, threatened her life, and forcefully raped her. She never even had a first date.*
>
> The mother of a teenage survivor of sexual assault

EDUCATIONAL COMMUNITY RECOMMENDATION FROM THE FIELD #5

Age-appropriate sexual assault and dating violence awareness and prevention programs should be a required component of school curricula. Schools should work with law enforcement agencies and rape crisis centers to develop strategies for preventing sexual violence and for assisting victims of such crimes.

According to a 1992 study, 61 percent of American rape victims were victimized before the age of 18, and 29 percent of forcible rapes occurred when the victim was less than 11 years old. Moreover, 84 percent of rape victims never report the crime to the police.[22] Sexual assault education for America's youth should be targeted to preteen adolescent girls and boys and should stress the importance of reporting sexual incidents to a teacher, trusted adult, or victim service agency.

EDUCATIONAL COMMUNITY RECOMMENDATION FROM THE FIELD #6

Colleges and universities should establish comprehensive programs to assist students, faculty members, and staff who are victimized by crime. These programs should be coordinated closely with local crime victim assistance programs.

Comprehensive services should be available to all campus victims. Campus law enforcement should be informed of every victimization reported by students, as should local law enforcement agencies. Responses to victimized students should be guided by written protocol, which must include, at a minimum, procedures for referring victims to local victim assistance, health care, and mental health providers and law enforcement agencies. The protocol should also address immediate, intermediate, and long-term responses.

EDUCATIONAL COMMUNITY RECOMMENDATION FROM THE FIELD #7

Colleges and universities should offer interdisciplinary credit courses on victim issues and rights in departments that train professionals who interact with crime victims. Victim issues should also be incorporated into professional licensing exams.

The following departments should offer at least one interdisciplinary course in victims issues: criminal justice, law, psychology, social work, health care, theology, education, and business. Additional specialized courses may include crimes against women, hate and bias crimes, child victimization, elder victimization, domestic violence, homicide, and drunk driving. Professions requiring licensing or certification should include victim issues in their professional exams. In addition, colleges and universities should develop degree programs that focus on victim issues, and they should encourage students to conduct research in this area.

EDUCATIONAL COMMUNITY RECOMMENDATION FROM THE FIELD #8

All college and university campuses should adopt sexual assault and dating violence protocol that include clear definitions of proscribed conduct. These policies should be disseminated to all students, campus staff, and faculty. Campus staff and faculty should be trained in procedures for responding to students who have been sexually assaulted.

Every college and university should develop, print, and distribute a clear institutional policy against sexual assault to inform current and prospective students, faculty, and staff that these crimes will not be tolerated on campus. Policies should include definitions of sexual assault and dating violence, data on the prevalence of these crimes on campus, relevant provisions of the code of student conduct, and a description of the school's prevention strategies and victim assistance resources.

Colleges should periodically review and update their protocol as new crimes emerge. For example, the Drug Induced Rape Prevention and Punishment Act was signed into law in October 1996 as a result of an alarming rise in the use of "rape drugs" on college campuses.[23] The law makes it a federal crime to distribute a controlled substance to an individual without that individual's knowledge and with the intent to commit a crime of violence, including rape. In August 1997, Attorney General Janet Reno joined the Rape Treatment Center (RTC) at Santa Monica-UCLA Medical Center in launching a national effort to warn college students of the dangers of two new drugs, Rohypnol and GHB, that sexual predators use to incapacitate their victims before assaulting them. The prevention campaign is supported by a broad partnership of victim advocates, prosecutors, law enforcement agencies, and the private sector, which has produced educational materials and public service announcements about the dangers of the drugs for national dissemination. All colleges should widely distribute information about "rape drugs" and the new federal legislation.

EDUCATIONAL COMMUNITY RECOMMENDATION FROM THE FIELD #9

All school districts, colleges and universities should design and implement a standardized system for documenting, analyzing, and reporting crimes to law enforcement.

Schools and universities around the nation vary widely in how they collect data on incidents of student violence and discipline and whether or not they report to law enforcement. Without accurate and consistent data, it is difficult for educators to draw conclusions about the impact of violence prevention programs in their schools.[24] Increasing numbers of schools are recognizing the benefits of accurate data collection and some have used new technologies to assist in this process. For example, in Virginia, the Norfolk Public School District's School Management and Resource Teams program, funded by a joint grant from the U.S. Departments of Education and Justice, includes a simple-to-use, computerized system that is used in each of Norfolk's schools to collect data on the nature and location of violations. Student names are not included to protect victims' identity.

EDUCATIONAL COMMUNITY RECOMMENDATION FROM THE FIELD #10

Schools, colleges and universities should develop specialized education and training programs for faculty, administrators, and staff on crime victim issues.

Although many school teachers, college faculty, and other staff frequently face issues of crime and violence, most lack the training, skills, and resources to address these sensitive issues. When a student or coworker is victimized, many educators find themselves feeling overwhelmed and unprepared to respond appropriately. Education about victims' rights and services should be an integral part of training for all school and university staff. Education should be interdisciplinary and inform future educators about effective team approaches to handling victims and offenders. In addition, all educators should receive ongoing inservice training on these issues.

Campus administrators, faculty, board members, resident advisors, campus security and police, and university mental health center staff should also receive training on victim issues. Information about specific crimes such as sexual assault, drunk driving, dating violence, gang violence, and hate and bias crimes should be included in both academic and training curricula.

EDUCATIONAL COMMUNITY RECOMMENDATION FROM THE FIELD #11

Victims should have certain rights in disciplinary hearings involving crimes in schools and on college campuses. These rights should include the right to notice of the hearing, the right to be accompanied to the hearing by a person of their choice, the right to give a victim impact statement before a penalty is assessed, and the right to be informed of the outcome of the hearing. In addition, victims should be protected from irrelevant questions about their past sexual history.

School and university disciplinary hearing procedures are set forth in codes regulating student conduct and generally constitute an informal trial before a panel of faculty or student representatives. To encourage the reporting of crimes and to ensure fairness to victims throughout the disciplinary process, schools and colleges should include in student codes a statement of the rights of victims during disciplinary proceedings conducted by the college or university.[25] Similarly, state education codes should be revised to establish rights and protections for students who are victimized in their schools. (The rights of victims' in administrative proceedings are discussed in more detail in Chapter 1.) When administratively handled cases are not referred to local law enforcement agencies, the victim should be informed of the reason.

EDUCATIONAL COMMUNITY RECOMMENDATION FROM THE FIELD #12

School and college campuses should develop crisis response protocols so that they are prepared to respond to major incidents of violence.

A growing number of communities and institutions are developing crisis response capabilities to respond to incidents of violent crime. Since 1987, the National Organization for Victim Assistance (NOVA) has coordinated a National Crisis Response Team Training Institute, which trains service providers in community crisis response. NOVA, with funding from the U.S. Departments of Justice and Education, is currently developing a training program for school-based personnel on effective responses to incidents of violence and serious victimization. Every school and college campus should develop this crisis response capability to ensure that victims receive appropriate services in the aftermath of violence.

EDUCATIONAL COMMUNITY RECOMMENDATION FROM THE FIELD #13

School and university libraries should incorporate resources on victim rights, victim services, and violence prevention into their collections and information displays.

School and university libraries provide critical information to students, teachers, and staff, and they should create specialized sections and coding systems dedicated to publications on victim issues. Libraries can play an important role in publicizing victim assistance and crime prevention information. For example, libraries can provide a public service by displaying posters with the toll-free phone numbers of national organizations that assist victims of domestic violence, sexual assault, child abuse, and drunk driving. In addition, school libraries should post listings of local victim service organizations in a highly visible location.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

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CHAPTER 11

The Faith Community

Tens of millions of Americans call upon clergy and religious leaders for spiritual guidance, support, and information in times of personal crisis.[2] One study found that people in crisis due to the death of someone close were almost five times more likely to seek the aid of a clergy person than all other mental health sources combined.[3] While the faith community has historically provided prison ministry programs, few religious institutions have developed programs specifically to serve victims of crime.

Faith-based crime victim assistance programs were virtually nonexistent in 1982 when the President's Task Force on Victims of Crime released its *Final Report.* The Task Force encouraged the faith community to recognize that "the victim certainly no less than the victimizer is in need of aid, comfort, and spiritual ministry."[4] It recommended that the ministry develop both seminary and inservice training on the criminal justice system, the needs of victims, and ways to restore victims' spiritual and material health.

> *Our families are torn by violence. Our communities are destroyed by violence. Our faith is tested by violence. We have an obligation to respond.*[1]
>
> Pastoral Message, U.S. Catholic Conference, 1994

The faith community has made steady progress toward these goals. With support from the Office for Victims of Crime (OVC), educational initiatives on victim assistance have been developed in communities across the country. Led by groups such as The Spiritual Dimension in Victim Services in Denver, Colorado, these initiatives have included training for parish clergy and hospital chaplains conducting ministries in high-crime urban areas, training for crime victim service providers seeking ways to involve the faith community in their efforts, workshops at national and regional denominational events, and distribution of manuals, brochures, and other materials on victim assistance to clergy and congregations.[5]

This section describes the wide range of victim assistance programs established by the faith community in the past 15 years and suggests specific ways in which communities of faith can more effectively assist victims of crime.

Faith-Based Victim Assistance Programs

In communities across the country, faith-based victim assistance programs have grown in number and expanded the services that they provide. They are now an important source of support to victims and their families.

- In Akron, Ohio, the Furnace Street Mission established one of the first faith-based victim assistance programs in the United States in 1982. Today it serves more than 25,000 people a year, exemplifying how traditional ministries can be expanded to include crime victim assistance.

- Neighbors Who Care, an interdenominational program, was founded in 1992 as the victim-serving subsidiary of the large national organization, Prison Fellowship. The program enlists volunteers from churches to provide direct services, primarily to victims of property crime. Volunteers repair property and provide transportation, moving assistance, and other vital services. The program recently expanded to include services to victims of domestic violence and other crimes.

- African-American churches in the East Bay communities of Northern California have joined together to conduct neighborhood meetings and counseling after violent crimes and instances of police officer misconduct.[6]

- In Jackson, Mississippi, Catholic Charities sponsors a shelter for battered families that serves 350 women and children each year from seven rural counties, providing transitional housing, legal assistance, and individual and group counseling.

- The United States Catholic Conference has developed a number of publications on crime victims' issues. *Confronting a Culture of Violence—A Catholic Framework for Action* highlights a number of victim assistance and crime prevention activities in dioceses, parishes, and schools across the country and calls for a major effort to mobilize the Catholic community to confront the culture of violence. *When I Call for Help—A Pastoral Response to Domestic Violence Against Women* contains practical suggestions for assisting women who are battered as well as men who abuse. *Walk in the Light—A Pastoral Response to Child Sexual Abuse* reaches out to people who have been abused, to abusers, and to pastors, pastoral staff, and other church workers who can assist victims.

- Brother Modesto Leon of the Catholic Church in Los Angeles operates a support and intervention program for mothers of murdered Latino children. The mothers comfort each other and tell their stories to gang members to prevent further gang violence and death in the Los Angeles Latino community.[7]

- In Memphis, Tennessee, Victims to Victory provides faith centered support and healing to homicide survivors. Katherine (Kitty) Lawson, an African-American ordained minister at Abundant Grace Fellowship Church, founded Victims to Victory in 1995 in response to the needs of a church family tormented by a double murder.

- Religious and spiritual organizations frequently invite victim assistance organizations to use their space to conduct support groups, candlelight vigils, and other victim assistance activities. In Cleveland, Mississippi, for example, Pastor Roderick Mitchell opened his church in 1995 to a rape crisis program in need of a home. The church has now expanded to provide services to all victims of crime through a community-based organization called Exodus Center for Life.

- The Christian Society for the Healing of Dissociative Disorders is a national consortium of psychiatrists, psychologists, and social workers who combine therapeutic skill and spirituality in treating ritualistically abused survivors. The Society is headquartered in Bedford, Texas, and holds an annual conference of several hundred participants to share treatment information.

Multidisciplinary Efforts

One of the most promising areas of the faith community's response to the victims' movement has been the willingness of religious organizations to collaborate with the secular victim assistance community. The programs discussed below illustrate how communities of faith can work with organizations pursuing similar goals to provide comprehensive services to crime victims.

By proclamation and performance churches must come forward to give assistance to victims of crime.

Pastor Roderick Mitchell,
New Life Church,
Cleveland, Mississippi

- Faith communities are "adopting" child protection social workers, serving as a resource for them as they help children recover from family violence. The programs, which have a significant presence in California, Oklahoma, and other states, also help to educate congregations about child abuse and neglect and the large numbers of children who suffer from these crimes.

- In Costa Mesa, California, Royal Family Kids Camps help congregations sponsor summer camps for severely abused and neglected children. To date, more than 4,000 children between the ages of 7 and 11 who are in the custody of child protective services have enjoyed a week of positive support in a safe and nurturing environment.

- The Center for Prevention of Sexual and Domestic Violence, affiliated with the United Church of Christ of Seattle, Washington, directly supports victims and survivors and promotes cooperation between communities of faith and secular organizations across the country on sexual and domestic violence issues. The center recently expanded its activities to include education on clergy sexual misconduct and assistance to the victims of this crime.

- The Colorado/Oklahoma Resource Council (CORC), a secular organization, was formed in Denver, Colorado, to provide resources to victims of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City after the trial was moved to Denver, Colorado. CORC established a spiritual needs committee to support those attending the trial. CORC, the Denver Police Chaplaincy Corps, the Colorado Council of Churches, The Spiritual Dimension in Victim Services, and other organizations have established a multifaith coalition to assist and provide counseling to the families.

Victim-Offender Dialogue

The community of faith has created numerous faith-based victim-offender mediation/dialogue programs in which meetings between victims and offenders are arranged when victims request it and the courts allow offenders to participate. Mediation/dialogue programs allow offenders to confront the consequences of their crimes and then work out contracts with victims to provide them with restitution. Volunteers from the faith community are trained by professional mediators to facilitate the dialogue, which must be undertaken with great care to ensure that victims and offenders are prepared adequately for what can be a painful healing process.

- The Mennonite-based Victim Offender Reconciliation Program in Clovis, California, offers victim-offender dialogue services that have been used widely in other communities of faith to help individuals start the recovery process in the aftermath of victimization. The program is supported by 42 churches and provides training to Christian and Jewish communities.

Victims of crime often experience a crisis in faith. How religious leaders respond to their needs can be either a help or a hindrance in healing.

Anne Delaplane,
Associate Director,
Spiritual Dimension in
Victim Services,
Denver, Colorado

Confidentiality and Reporting Crime to Law Enforcement

Religious leaders are responsible for ministering to all members of their congregations, including those who may have committed criminal acts. This obligation presents ethical and religious dilemmas when crimes are confessed in confidentiality, especially if the criminal activity is continuing. In these situations, clergy must weigh the importance of respecting privileged communication in relation to the need to protect victims and society from harm. To make responsible decisions, clergy must have a full understanding of the law as well as the nature and consequences of victimization.

Laws requiring the reporting of suspected child abuse highlight this dilemma. All states mandate the reporting of child abuse by professionals who come into contact with children, and at least 30 states require clergy to report child abuse in some circumstances. Only five of these states, however, clearly require clergy to report in all circumstances, leaving largely intact the traditional privilege given to communication with clergy. But an increasing number of faith communities are modifying their codes of clergy conduct to require clergy to report suspected child abuse and complete training on child abuse issues.

- The Evangelical Lutheran Church in America gives this directive to clergy: "Ordained ministers must respect privileged and confidential communication and may not disclose such communication, except with the express permission of the person who has confided it or if the person is perceived to intend great harm to self or others."[8]

- The Episcopalian Church requires 4 hours of training on child abuse for those who work with children during their daily activities. This requirement applies to all religious leaders as well as day care providers. In addition, the Roman Catholic Church requires some Archdiocese to receive similar training.

Recommendations From the Field for the Faith Community

FAITH COMMUNITY RECOMMENDATION FROM THE FIELD #1

The faith community should recognize that the victim, no less than the victimizer, is in need of aid, comfort, and spiritual ministry, and faith-based congregations and organizations should provide assistance to victims whenever possible.

There continues to be a general lack of education and understanding of the needs of crime victims in the faith community. Recognition of crime victims' needs should be an integral part of the faith community's worship, life, and ministry.

In a 1992 survey of 97 denominational headquarters, respondents were asked about their programs to assist crime victims. Most replied that their programs were jail and prison ministries for offenders, not victims. While these programs should not be diminished, it is insufficient for the faith community to address the spiritual needs of offenders without recognizing the spiritual needs of victims. The faith community can and should conduct ministries for both.

While many denominations have mission statements that address child abuse and neglect and domestic violence, these mission statements should be expanded to include all victims of crime. All denominations should adopt such statements and include them in canons of ethics.

Many excellent examples of programs have been created and supported by the faith community, from providing emergency property repair, transportation, and other crisis services to supporting summer camps for child abuse victims. These efforts should be expanded.

FAITH COMMUNITY RECOMMENDATION FROM THE FIELD #2

Courses on crime victimization and crime victim assistance should be established in clergy educational institutions and theological seminaries, including both worship and pastoral counseling courses.

Because so many people in crisis seek clergy for assistance, professional schools that educate future religious and spiritual leaders must provide a foundation of knowledge in the field of victim issues. Classes should include the clergy's role in intervening with crime victims, appropriate courses of action that involve criminal justice, medical, mental health, and social services referrals, and planning of worship services centered around a crisis. Clergy should have education in appropriate death notification following a sudden death as compared to death following illness.

FAITH COMMUNITY RECOMMENDATION FROM THE FIELD #3

Continuing education on crime victimization and crime victim assistance should be provided for all clergy and religious leaders, including chaplains in hospitals, police departments, and the military and other individuals within the faith community who may come into contact with victims.

Education about the consequences of victimization will increase the faith community's responsiveness to crime victims. To help spiritual and religious leaders appropriately treat or refer serious trauma-related cases that require indepth mental health intervention, they should be trained to recognize symptoms of post-traumatic stress disorder and other long-term psychological reactions to crime victimization. They should also be knowledgeable about community, state, and national resources that provide victim assistance.

Religious leaders often are among the first responders following a sudden, violent death. Although most clergy are educated in traditional grief counseling techniques, education on specific interventions for trauma, grief, and loss following criminal victimization should be provided. Clergy should also receive training on appropriate death notification practices.

Other groups within the faith community also interact with victims and need education about victims' issues and services. They include Sunday school teachers, youth leaders, choir directors, and counselors on prayer phone lines providing comfort and assistance to individuals in crisis. Religious and spiritual organizations should identify such groups within their memberships and make continuing education on victims' issues and services available to them.

FAITH COMMUNITY RECOMMENDATION FROM THE FIELD #4

Religious institutions at all levels should cooperate with victim assistance agencies and organizations to offer joint services to victims of crime and to disseminate publications on crime victim assistance.

Religious organizations working in conjunction with victim assistance agencies have the capacity to provide important services to crime victims. During the trials of the bombing of the Alfred P. Murrah Federal Building, for example, safe havens were established in local churches by victim assistance providers to ensure that victims would have a quiet place to meet and receive counseling. In another collaborative effort, the National Cathedral in Washington, D.C., worked with Mothers Against Drunk Driving to hold the International Candlelight Vigil of Remembrance and Hope in December 1997, which featured the voices of victims and survivors of crime.

Efforts must be expanded to distribute victim assistance information, including booklets, pamphlets, videos, and educational materials, more widely in the community of faith. Ministerial associations and interfaith alliances should be included routinely in the dissemination of victim service information.

FAITH COMMUNITY RECOMMENDATION FROM THE FIELD #5

The clergy should provide training for victim assistance providers, criminal justice officials, state victim assistance administrators, compensation program directors, and other public officials about the important role they can play in assisting victims.

State administrators, criminal justice-based victim assistance providers, and other public officials are often uncomfortable dealing with the faith community because they fear a blurring of the separation of church and state. The victim assistance community should recognize that faith-based programs can play a significant role in victim support as long as public funds are not used to promote specific sectarian beliefs. Victim service providers should ask clergy to help them react appropriately to people whose victimization includes a faith crisis.

FAITH COMMUNITY RECOMMENDATION FROM THE FIELD #6

Requiring clergy to report suspected cases of child abuse should be seriously considered by religious institutions and governmental agencies, and appropriate policies should be developed to ensure the protection of children. Even in cases involving confidential communications, the clergy should hold the needs of children paramount and recognize their moral responsibility to help and protect child victims.

Many victims' organizations believe that clergy should be required to report suspected cases of abuse to law enforcement, even when information is revealed within a confidential setting, and that clergy should be held to the same mandatory reporting requirements and standards as medical or mental health professionals and teachers.

Recently, many state legislatures have considered whether clergy should be among those mandated to report child abuse and neglect in view of their legal privilege of confidentiality. The results have been mixed, with some states requiring clergy to report in all cases, other states requiring reporting in selected cases, and most states exempting clergy from reporting requirements when an offense is revealed in a confidential pastoral counseling or confessional setting. However, all states require clergy to report incidents of suspected child abuse while serving as therapists, school administrators, or day care providers.

FAITH COMMUNITY RECOMMENDATION FROM THE FIELD #7

Communities of faith should hold clergy and other religious leaders in positions of trust within their congregations accountable for crimes they commit, including sexual acts against adults and children. Policies and procedures should be developed to ensure that appropriate cases of clergy misconduct are referred to law enforcement agencies.

Criminal background checks should be mandatory for all clergy, faith community staff, and volunteers who work with children. A number of high-profile civil legal actions have been brought against religious leaders accused of child abuse or sexual assault and their religious institutions for not reporting known incidents of abuse to law enforcement agencies. While those who commit such acts represent a small percentage of the faith community, it is crucial that policies and procedures be developed to ensure that these cases are handled with utmost concern for the victim and that appropriate cases are not only referred to law enforcement agencies but dealt with swiftly within the institution to ensure the protection of others.

> *The Catholic community has much at stake and much to contribute. What we believe, where we are, and how we live out our faith can make a great difference in the struggle against violence. We see the loss of lives. We serve the victims. We feel the fear. We must confront this growing culture of violence with a commitment to life, a vision of hope, and a call to action.*
>
> Pastoral Message of the U.S. Catholic Bishops, *Confronting a Culture of Violence: A Catholic Framework for Action*, 1995.

FAITH COMMUNITY RECOMMENDATION FROM THE FIELD #8

Religious and spiritual leaders should be encouraged to use their pulpits to educate and sensitize their congregations about crime and victimization issues.

Religious and spiritual leaders have an opportunity to use their positions to educate their congregations about crime and its impact—information that could help the members of a congregation seek out the services they need if they become victims of crime. Religious and spiritual leaders could encourage congregations to join in the national October observance of "Domestic Violence Awareness Month" and deliver at least one sermon that month about the impact of family violence. In addition, they could highlight crime victims' issues during National Crime Victims' Rights Week, generally held at the end of April. Each year, the Office for Victims of Crime funds a National Crime Victims' Rights Week kit which includes a sample sermon about victims' issues.

FAITH COMMUNITY RECOMMENDATION FROM THE FIELD #9

Religious and spiritual leaders should be willing to serve in leadership roles on community crisis response teams providing services in the aftermath of mass violence and other crimes that have significant impact upon entire communities.

Religious and spiritual leaders can play a leadership role in helping to ensure that their communities are prepared to respond to community and individual needs following incidents of mass violence, terrorism, or other major crimes. They can also volunteer to serve on crisis response teams that provide assistance to other communities, such as the teams organized by the National Organization for Victim Assistance to debrief school children, teachers, and emergency responders following the bombing of the Alfred P. Murrah Federal Building.

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CHAPTER 12

The Business Community

Floor of the New York Stock Exchange
Friday, April 19, 1996, 10:02 a.m., EST.

> I was standing near a trading position . . . speaking to a harried specialist about the hectic pace of the trading day. . . . A message went out across the electronic ticker informing us that trading would be halted shortly. The directors of the Exchange walked out onto the balcony overlooking the floor. The bell was rung in remembrance of the 168 victims of the Oklahoma City bombing. There were 3,000 people on the floor. They all went silent. It was an eerie feeling that for a whole minute the wheels of capitalism had come grinding to a halt. Some people bowed their heads in silent prayer for the people killed at the Oklahoma City federal center. Others looked around, stunned by the rare sight of the trading floor at a dead stop during the middle of a session. . . . For that minute, even Wall Street bonded with the victims on Main Street.
>
> Aldo Svaldi, Reporter, The Denver Business Journal[1]

The New York Stock Exchange has not been alone in remembering the victims of the worst terrorist attack on American soil. Businesses across the nation, particularly in Oklahoma City and Denver, Colorado, the site of the bombing trial, have given generously to the victims in time, money, and emotional support. In fact, the private sector has taken giant steps toward meeting the recommendations of the *Final Report* of the 1982 President's Task Force on Victims of Crime, which stated that:

- Businesses should authorize paid administrative leave for employees who must miss work because of injuries sustained in a violent crime, and for employees who must attend court hearings.
- Businesses should establish employee assistance programs for victims of crime.
- Creditors should make liberal allowances for persons who are unable to make timely payments because of recent victimization.

- The private sector should encourage private contributions of money and other support to victim service agencies, whether public or private.

In the past 15 years, employers have begun to recognize that it is good business to offer employees a full spectrum of assistance programs to help them deal with problems, including criminal victimization, that affect job performance and the safety of the workplace. Employee assistance programs are now routinely offered in many workplaces. Some enlightened employers and unions are implementing policies to prevent violence in the workplace and to assist employees who become victims. Unfortunately, many barriers still block corporate America's ability and willingness to respond fully and appropriately to crime victims.[2] This chapter highlights innovative corporate approaches to assisting victims and responding to workplace violence and proposes recommendations to improve the business community's response to violence.

Cash and In-kind Corporate Contributions

The hundreds of companies that have made monetary and in-kind donations to individual victims and community victim services in the past few years are too numerous to name. The examples below were chosen to illustrate the variety of private sector contributions. For many companies, their response followed a violent crime that affected the organization's employees, customers, or community.

- In 1988, Warner Bros. Television helped to establish a medical clinic to provide pediatric forensic examinations of children suspected to be victims of sexual abuse. Instead of giving holiday gifts to their producers and actors, they made a difference in the community by supporting expert medical care for abused children in a child-friendly setting. The company continues to fund the clinic, which is a program of the Rape Treatment Center at Santa Monica-UCLA Medical Center.

- Kaiser Permanente signed on as the title sponsor for a 5K/10K run in June 1996 to raise money for college scholarships for youth whose lives have been affected by violent crime. The program was started by a group, "Friends of Janie," formed to help the Fountain Valley, California, Police Department in apprehending the killer of Jane Carver. Carver's husband was a longtime Kaiser Permanente employee.[3]

- Bank of America donated $50,000 to the Los Angeles Police Memorial Foundation and $50,000 to the Los Angeles City Attorney's Victim Assistance Program after armed robbers brandishing automatic weapons entered a branch office and forced employees and customers into the bank vault. Several police officers and local residents were shot.[4]

- The outpouring of help for the victims and families of victims of the Long Island Railroad shooting massacre included donations from singer Mariah Carey from the profits of her hit single "Hero" and an offer by the Mitchel Field physical therapy and rehabilitation center to provide its services free of charge to the injured.[5]

- Marshalls Inc., a national retailer headquartered in Andover, Massachusetts, issued a "Business 4 Family" Challenge, encouraging other firms to join in raising funds to support victims of domestic violence. Marshalls donated a portion of sales from its 460 stores nationwide as part of its "Shop 'till it Stops!" day. Additional contributions were raised by Vanity Fair Corporation, Sodexho, IBM, FootAction, Bradlees, Jordan's Furniture, Frugal Fannie's, Charette Art Supply, and several Boston law firms.[6]

- Polaroid Corporation, a leader in innovative human resources policies, donates substantial funds through the Polaroid Foundation to battered women's shelters throughout Massachusetts. Polaroid's CEO Project encourages local businesses to "adopt" a women's shelter, providing financial support, in-kind assistance, volunteers, and advocacy.

- Countrywide Moving and Storage, an independent small business in Texas, provides free moving and storage to help victims move out of an abusive home and resettle in a safer environment.

- The Rykä R.O.S.E. (Regaining One's Self Esteem) Foundation, established by Sheri Poe, a sexual assault survivor and owner of a highly successful Massachusetts-based athletic shoe business, Rykä, Inc., funds education, prevention, and treatment programs to help end violence against women.

- Many cellular phones and communication service companies, including Cellular One, AT&T, BellSouth Mobility (Atlanta), First Cellular Omaha, AirTouch Cellular Company (Phoenix), and Bell Atlantic Nynex Mobile (New Jersey), donate cellular phones programmed to call 911 to stalking victims and victims of domestic abuse. These lifeline projects are coordinated by local law enforcement and domestic violence shelters. Communications companies have also donated voice mail boxes for women in abusive situations to receive messages from family members, advocates, the police, and their attorneys.[7]

- ADT Security Services has begun a nationwide program to donate security systems and emergency electronic necklaces to aid battered women. A woman in danger can squeeze the necklace and a silent signal will be sent to a security operator, who contacts the police.[8]

- A prominent advertising agency, Dailey and Associates, collaborated with Santa Monica's Rape Treatment Center to produce educational materials for a national campus rape campaign. As a result of this effort, posters and brochures as well as television and radio public service announcements were made available to college campuses across the country.

The arts and entertainment industry has initiated innovative victim assistance efforts, including:

- America's first nationwide sexual abuse hotline, 1-800-656-HOPE, was launched by pop star Tori Amos, whose song "Me and a Gun" describes her own harrowing experience as a rape victim. The hotline is operated by the Rape, Abuse & Incest National Network (RAINN) based in Washington, D.C.

- Austin, Texas, musician Tony Murillo, whose mother was murdered over 10 years ago, organizes annual "When the Music Stops" benefit concerts during National Crime Victims Rights Week. All proceeds go to crime victims.

- Artist Peter Max painted four portraits of 17-year-old Corie Williams, a student slain by gang gunfire in Compton, California, as she rode a bus home from high school in January 1997. Copies of the original artwork will be used as billboards announcing a "Stop the Violence, Start the Peace" campaign.[9]

- A group of prominent professional athletes led by Don Edwards and 15 NFL alumni from the Los Angeles Raiders, Pittsburgh Steelers, Kansas City Chiefs, and other teams, established the Athletes Helping Kids campaign as well as free football clinics and stay-in-school programs for inner-city youth at risk of violence. Mr. Edwards also arranged for noted athletes to provide assistance to children in Oklahoma City following the bombing of the Alfred P. Murrah Federal Building.

By producing memorable programs, the television industry has dramatically increased public awareness about crime victims' issues, particularly in the area of child abuse, sexual assault, gun violence, stalking and domestic violence.

- In the 1970s, CBS aired an Emmy-award winning episode of *All In The Family* in which Edith Bunker was a victim of an attempted rape. The production company, Tandem Productions, underwrote a national campaign in which educational materials about rape and a discussion guide for rape crisis centers to use in local communities were distributed nationwide.

- The first television movie to deal with the topic of incest, *Something About Amelia,* had a major impact on focusing public attention on the need to report the crime and treat its victims and perpetrators.

- More than 15 years ago, *Hill Street Blues* was the first television series to introduce the role of a victim advocate.

- In the 1980s, the movie *Adam's Story* brought national attention to the tragedy of abducted children. A true story produced with input from Adam's parents, John and Reva Walsh, it helped to publicize the National Center for Missing and Exploited Children's toll-free hotline.

- NBC televises public service announcements and hotline numbers after airing movies that publicize the trauma of victimization. Examples include *Schindler's List* (hate crimes), *She Cried No* (campus date rape), *Fight for Justice: The Nancy Conn Story* (victims' rights), and *The Burning Bed* (domestic violence).

- HBO has produced and aired several documentaries on gun violence including *5 American Handguns, 5 American Kids* and *Guns: A Day in the Death of America.* HBO also produced and aired a special on workplace violence, *Murder 9 to 5.*

- In 1993, CBS aired *I Can Make You Love Me: The Stalking of Laura Black.* The National Victim Center's toll-free information and referral service was publicized during the show and received more than 15,000 calls in 36 hours.

- For more than two television seasons, ABC's *NYPD Blue* developed a leading character who has helped to educate the public about the long-term effects of childhood sexual abuse, which are complicated by the common occurrence of the victim keeping the secret until adulthood.

Workplace Violence

The National Institute for Occupational Safety and Health reports that murder is the leading cause of death for women at work, and third leading cause of death for men. While some occupations are clearly at higher risk for violence—law enforcement, retail, and emergency medical professionals, to name a few—no group is immune from workplace violence. It attacks the public and private sector alike. A pawn shop owner, a convenience store clerk, a psychologist, two sanitation workers, a tavern owner, a fisherman, a cook, two cab drivers, a furniture store owner, a restaurant manager, a maintenance supervisor, a video store owner, and a postal carrier were all murdered at work in this country in one week, according to the Centers for Disease Control. Each year, nearly one million individuals become victims of violent crime while working or on duty.

A man fired 9 months earlier from an insurance company in Tampa, Florida, returned to the cafeteria of his former employer and began shooting. Within minutes, five people were wounded, three of whom died. "This is what you get for firing me," he uttered as he fled the scene. These were the last words his coworkers would ever hear.

He drove a rental car to a park where he used to play frisbee and committed suicide. In many ways, he was a classic, violence-prone ex-employee, and in many ways, he was not. But the type of crime he committed is on the rise and is one of the newest and most threatening dangers in the workplace.

FBI Law Enforcement Bulletin, April 1995

costing an average of 3.5 days of missed work per crime.[10] Five percent of women victimized at work are attacked by a husband, ex-husband, boyfriend, or ex-boyfriend.[11]

Whenever a violent incident occurs in the workplace, there is great potential for physical, emotional, and financial damage to both primary and secondary victims as well as the entire community. Victimization and its consequences must be dealt with by employee victims, but they need assistance, information, and referrals to do it effectively. The reaction, support, and assistance of management and crisis responders are crucial to survivors of workplace violence. Secondary victimization can occur if the reaction and response of colleagues and management are ineffectual and uncaring.

Businesses are beginning to take a serious look at the threats and damage to their employees and workplaces from violent workplace incidents. They are developing prevention efforts to keep violence out of the workplace, including instituting security measures and hiring psychologists to develop risk assessment profiles of typical workplace killers. When violence strikes, employers now realize that they must deal with both the physical injury and the emotional consequences of trauma. Onsite and offsite employee assistance programs—which typically deal with drinking, drug abuse, and other family problems—are used by nearly 50 percent of organizations in the aftermath of workplace violence.[12]

When business and industry take an active role in prevention planning and response to violence at work, the human and financial losses can be significantly reduced.

Dr. Lawrence Bergmann,
President,
Post Trauma Resources,
Columbia, South Carolina

In Columbia, South Carolina, Post Trauma Resources has a team of specially trained mental health providers that are available 24 hours a day to respond to the needs of survivors of personal, work, and duty-related trauma. Founded in 1982 to serve the needs of Vietnam veterans and their families, today Post Trauma Resources responds to over 150 violence-related incidents each year that occur in business, law enforcement, corrections, and other settings. The group works closely with the business community in providing specialized trauma response in the aftermath of incidents such as bank robberies and workplace shootings as well as in safety planning.

Other organizations use ad hoc crisis management teams or independent trauma consultants. The National Organization for Victim Assistance (NOVA), for example, has initiated a National Community Crisis Response Team project to respond to violent incidents in workplaces. The project was started after NOVA led a team to assist the community of Edmond, Oklahoma, in the aftermath of the slaying of 14 post office employees in August 1986. Another innovative response is sponsored by Mothers Against Drunk Driving, which publishes "Monday Mourning" to assist businesses when an employee or employee's family member is killed by a drunk driver.

In early 1997, the National Victim Center, through an Office for Victims of Crime grant, convened a major workplace violence symposium to improve the capacity and preparedness of employers and victim assistance providers to respond to the unique needs of victims of workplace violence. Participants represented a broad cross-section of fields of expertise related to issues of workplace violence victimization, including victim service professionals, management and human resource professionals, employee assistance professionals, union representatives, representatives from governmental research and regulatory agencies related to workplaces, researchers, workplace violence experts, mental health professionals, and representatives from the military and law enforcement. Participants also included three victims of workplace violence. Participants shared information about promising practices, worked in small multidisciplinary groups to identify areas for further action, and produced recommendations to improve the response to victims of incidents of workplace violence, some of which are included in this report.

Domestic Violence and the Workplace

Whether domestic violence impacts a workplace directly because a batterer follows his prey to her job site, or indirectly by affecting an employee's job performance, employers are beginning to take responsibility for assisting employees who are victimized. The National Workplace Resource Center on Domestic Violence, a project of the Family Violence Prevention Fund in San Francisco, California, serves as a focal point for national and local responses to domestic violence as a workplace issue. The center was founded in 1995 by a broad-based national coalition of business, labor, and advocacy organizations. With support from the Office for Victims of Crime, the center is building on the pioneering work of companies like Polaroid, Liz Claiborne, the Gap, and Kaiser Permanente to educate other private and public employers, as well as the unions representing their workers, that domestic violence is a workplace issue. Some of the promising programs initiated by companies affiliated with the center are described below.

If you [as an employer] know someone is being abused, until you have done everything you can to help them, you are not doing your job.

Jerome Rossi,
President, Marshalls, Inc.

- In 1984, the Polaroid Corporation in Cambridge, Massachusetts, dealt with its first known case of domestic violence. Since that time, a concerted effort has evolved within the corporation to develop a comprehensive program to respond to the issue. Polaroid has made a commitment to domestic violence awareness, prevention, and response corporationwide, encompassing the company's employee assistance, human resources, legal, medical, security, and ombudsperson departments.

- In 1991, Liz Claiborne, Inc., began its WOMEN'S WORK campaign, a collaborative effort with public agencies to increase awareness of domestic violence. The campaign promotes public awareness through multimedia public service announcements, posters, tee shirts, mugs, and brochures.

- Since 1995, Aetna, Inc., based in Hartford, Connecticut, has integrated domestic violence prevention education and awareness into "Aenhance," its nationwide employee wellness program, thereby making education and prevention a routine part of its commitment to employee health and well-being. The company observes the annual Work to End Domestic Violence Day sponsored by the Family Violence Prevention Fund, holds workplace seminars, mounts art exhibitions on domestic violence, and publishes articles about domestic violence in employee publications. In 1996, Aetna, Inc. acquired USHealthcare, to form Aetna/USHealthcare, which offers a domestic violence training program to its network physicians.

- Since 1979, AFSCME District Council 37 in New York City has offered free legal and social services to members who are victims of domestic violence. These services include counseling, measures to protect members' safety, emergency housing relocation, referrals to shelters, and legal assistance including help obtaining orders of protection. AFSCME's Women's Rights Department has produced a domestic violence guide for all members, stewards, and labor-management representatives.

- Florida Governor Lawton Chiles convened the state's first Interagency Workgroup on the Impact of Domestic Violence on the Workplace on July 1, 1996, as part of his administration's Task Force on Domestic and Sexual Violence. The mission of the workgroup, which includes representatives from each state agency in Florida, is to heighten public awareness of domestic violence and to promote statewide guidelines for workplace domestic violence polices.

- Kaiser Permanente's Southern California branch, based in Pasadena, California, made a yearlong commitment in 1997 to educate its corporate employee assistance program (EAP) customers about the impact of domestic violence on their workforces. The company held a series of conferences for EAP managers and professionals throughout southern California, educating them on basic domestic violence issues including domestic violence in the workplace, the relationship between domestic violence and chemical dependency, and effective interventions and services for victims. In 1996, the CEO of Kaiser Permanente spoke to employees about domestic violence on Work to End Domestic Violence Day.

Domestic violence follows our state employees to work and directly impacts the health, safety, and welfare of our state workforce...In February of 1996, at 4:30 one afternoon, an employee of our state's Department of Revenue was gunned down by her husband, who then killed himself. Workers in offices statewide were shocked and saddened when they heard about this tragedy. They want to know what to do....As Governors we are in a unique position not only to help pass important laws and recommend policies to law enforcement, the courts or social service agencies, but also to help our state employees lead safer, healthier lives.

Governor Lawton Chiles, Florida, September 1996 letter to the nation's governors in support of Domestic Violence Awareness Month

- Mintz, Levin, Cohn, Ferris, Glovksy & Popeo, PC, a large law firm with offices in Boston and Washington, D.C., has created the Mintz Levin Domestic Violence Project to provide free legal representation to victims of domestic violence. To respond to the needs of its own employees, Mintz Levin has instituted workplace guidelines on domestic violence and offers legal assistance to employees threatened by domestic violence.

Recommendations from the Field for the Business Community

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #1

Business leaders should commit resources in addition to money to victim assistance and crime prevention efforts.

The easiest way for businesses to contribute to crime victims' needs is by writing a check. While monetary donations are always important and can be used to effect significant change, corporate America can assist in many other ways. For example, copy machines, computers, telephones, fax machines, and conference rooms can be made available to victim organizations after business hours or on weekends; delivery trucks can be used to transport equipment for nonprofit fundraising events; and employees can be encouraged to become volunteers, perhaps with a few hours of company time.

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #2

All managers, supervisors, union officials, shop stewards, and other designated employee representatives should receive training on how workplace violence impacts employees and the company; how to develop and implement policies and procedures to resolve conflicts before they erupt into violence; and how to develop and implement crisis response plans in the aftermath of violence.

Workplace violence cost companies $4.2 billion in lost work, claims, and legal expenses in 1992. According to the National Safe Workplace Institute, the cost to employers of a single episode of violence can amount to $250,000. Violence interrupts business with customers and reduces employee productivity. Costly repairs and cleanup may be required. Valued employees may quit or retire early because they fear the workplace is no longer safe. By being prepared, however, companies can minimize the damage from violent crises and facilitate a smoother transition to normalcy.

Although most companies have policies in place for fire and earthquake emergencies, and plans and contingencies for weather emergencies, many do not have policies for responding to workplace violence incidents. To respond effectively to workplace violence and its traumatic aftermath, companies must have procedures in place to meet the needs of victims. Personnel policies and procedures should be developed to address such issues before and after acts of violence whether they occur on or off the job. A company's polices should include options such as employee transfers, disciplinary measures, and termination. Implementation of these options should be accompanied by education for all relevant parties about risk assessment, the causes of violence, the needs of victims, and models for violence prevention. Human resource professionals should be educated about making appropriate referrals to community resources and services.

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #3

In cases of serious trauma and multiple victims, employees should be assisted by long-term expert psychological counseling.

Companies should be prepared to refer employees victimized at work to victim assistance and counseling agencies. In cases of high trauma, employee assistance programs may not be equipped to respond adequately. Individual and group crisis intervention and counseling is often needed to assist traumatized employees. Surveys show that employees who receive prolonged counseling and assistance after a violent incident are more productive and less likely to file lawsuits.

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #4

Counseling for psychological injuries suffered by victims of terrorist attacks in the workplace should be covered by worker's compensation and other employer-sponsored insurance.

In the aftermath of the 1993 bombing of the World Trade Center in New York City, and the massive truck bomb explosion at the Alfred P. Murrah Federal Building in Oklahoma City in 1995, many security experts have come to believe that terrorism is now a part of American life. Insurance attorneys initially refused to recognize workers' claims for psychological damage as a result of these terrorist acts, but judges in Oklahoma have ordered insurance companies to provide such coverage.[13]

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #5

Workplace policies and programs should be responsive to the needs of all crime victims, including victims of domestic violence.

Because domestic violence as a workplace issue has only recently come to the attention of employers and unions, many businesses do not know how to respond. Managers and supervisors, unions representatives, human resource personnel, company security, legal departments, employee health services, and employee assistance professionals should develop clear guidelines and policies on domestic violence that ensure victims access to all available workplace and community resources.

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #6

Employers and unions should work together to adopt leave and benefit policies that accommodate the needs of victimized employees to go to court, counseling, or a shelter without penalizing them with unexcused absences or dismissal.

Victims of crime often need time to meet with prosecutors and appear in court. Some victims need counseling to deal with the aftermath of horrendous crimes. When victims of domestic violence begin to make changes in their lives to escape their abuser, they must use normal business hours to take care of legal, financial, and personal safety issues. It is not possible to break away from an abusive situation without taking these steps. One of the most important actions that employers and unions can take for victims is to ensure that they have the time they need to consult lawyers, go to court, meet with law enforcement officials, and receive counseling services.

As President Clinton stated in a Rose Garden address on June 25, 1996:

> There ought to be, I believe, in every law, federal and state, a protection for victims who participate in the criminal justice process not to be discriminated against on the job because they have to take time off. That protection today is accorded to jury members; it certainly ought to extend to people who are victims who need to be in the criminal justice process.

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #7

All managers, supervisors, union officials, and shop stewards should receive training on how to recognize signs of domestic violence in their staff and apply organizational policies and programs to employees or members who are victims of domestic violence.

Administrators or executives who allow violent actions, words, or threats to go unnoticed without discipline are sanctioning violence.

Ann Wolbert Burgess, *Examining Violence in the Workplace, Journal of Psychosocial Nursing*, 1994

Prudent managers and union officials know that the success of even the best policies and programs is determined by how well those who implement them at the front line of the organization are trained. Because of the sensitivity of many of the issues involved in an abusive relationship, supervisors and shop stewards need to be trained in how to deal with domestic violence situations. In some large organizations, because it is not possible to train all supervisory and union staff, it may be appropriate to issue written guidelines, policy manuals, or other materials. Regardless of the form it takes, training should include basic facts about domestic violence, the organization's commitment to providing a supportive environment for victims, advice for talking with victims about performance-related problems, and guidelines for making appropriate and timely referrals to services within the company and the community.

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #8

Employee assistance program (EAP) staff, corporate fitness and wellness programs, and workplace health services providers such as occupational nurses and medical directors should receive specialized training in how to deal with employees who have been victimized.

While supervisors and shop stewards may have initial responsibility for referring crime victims to internal services, the social workers in the EAP and medical personnel in the company's health care unit provide the services. In recent years, organizations representing social workers, physicians, and nurses have begun to define how their professions can best serve the needs of crime victims. Businesses should ensure that their provider staff receive the best possible training on victimization issues and develop liaisons with local victim assistance services.

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #9

All workplaces should educate their employees to increase awareness of domestic violence and sexual assault as societal and workplace issues. Such education will promote compassionate responses to the needs of these victims and will serve to encourage victims to seek services available to them in the workplace and in their communities.

Domestic violence and sexual assault are crimes not well understood by society at large. Victims of these crimes are burdened with negative stereotypes, and the impact of domestic violence and sexual assault is not generally appreciated. Victims of domestic violence usually live in fear of family, friends, neighbors, and employers discovering that they are being abused. Workplaces can send compassionate, well-informed messages to all employees, whether or not they are victims, to begin changing societal attitudes. In doing so, employers and unions will provide a supportive environment in which victims can feel comfortable requesting services and help from the organization.

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #10

Research is needed that focuses on the risks and costs of workplace victimization to both the company and the employee.

Research is necessary to enhance public awareness of the scope, incident rate, and total impact of workplace violence. Studies are needed on the costs of workplace violence in lost productivity, the financial resources spent implementing workplace safety measures, the costs of workplace violence-related litigation, and the effect of workplace violence on a company's image. Research should also be conducted to determine which victim assistance and service programs have the greatest impact on employee morale and productivity.

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #11

Due to the complex issues and effects of workplace victimization, a comprehensive, multidisciplinary approach to delivering services for these victims must be developed and implemented at the national, state, and local levels.

A multidisciplinary approach to addressing the needs of workplace victims must include professionals and experts from a wide range of fields, including general and specific victim services; employee assistance services; mental health services; human resources and management; the legal profession, including prosecutors and civil, labor, and domestic dispute lawyers; workers' compensation; labor unions; and security and law enforcement agencies. The victim services field must build collaboration and implement cross-training between victim service professions, employee assistance professions, and labor-related groups to build understanding of the victimization experience and its short-term and long-term impact and consequences, as well as to develop an understanding of labor issues and initiatives. Moreover, the victim services field must encourage collaboration between all these professional groups on responding more effectively to workplace victimization and related issues. It is imperative that multidisciplinary groups work together to improve the capacity and preparedness of employers and employee assistance and victim assistance providers to respond to the unique needs of victims of workplace violence.

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #12

Employers should adopt policies and practices that accommodate crime victims who suffer physical and psychological disabilities as a result of their victimization in accordance with the Americans with Disabilities Act (ADA).[14]

Crime victims often pay a heavy price for the violence they suffer, but employers have it within their power to reduce the price victims pay in their professional lives. By its nature, violent crime inflicts serious physical and psychological injuries on its victims which may give rise to temporary or even permanent disabilities. If an employee suffers a temporary or permanent disability as a result of their victimization, employers are required to make reasonable accommodations under the Americans with Disabilities Act (ADA). But employers should be encouraged to go beyond the letter of the law to accommodate employees who are harmed by crime—particularly when employees are injured in the line of duty.

The ADA also bars discrimination against victims with disabilities on the basis of their disability. Victims injured by crime are often doubly disadvantaged in economic terms. Many not only lose their jobs due to incapacitation but are saddled with considerable financial debt as the result of lost wages and medical bills. When they are ready to return to the workforce, victims are forced to compete for the first time in an employment market with a disability. It is unfair to expect victims to shoulder such a disproportionate share of the burden for crime in our society. Employers should be encouraged to make every effort to hire victims who, while they may have special needs, are more than capable of doing the job. Indeed, many such victims are more highly motivated to succeed on the job than those who have not had to overcome the challenges of being a victim of crime.

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #13

Employers should report all violent crime that occurs on their premises and encourage their employees to do likewise.

Some employers have failed to report violent crime that occurs on their premises based on the mistaken view that the crime is not serious enough or that they can handle it themselves. Others fail to report violent crime because they fear that publicity of violent incidents may negatively impact their image in the community. Such misguided motivations have led to tragedy on more than a few occasions and left employers exposed to considerable legal liability. To avoid these problems, employers should report violent crime to authorities and inform their work force so that they can take appropriate precautions for their safety.

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #14

Worker's compensation programs should be combined with employee benefit programs to cover all expenses and lost income employees incur as the result of violent victimization on the job.

Worker's compensation programs and employee benefits such as health and disability insurance are intended to provide for the economic needs of employees who are injured on the job. While employers should make every effort to prevent violence in the workplace, when employees are injured by crime in the course of service to their employers, they should not be made to suffer financial ruin in addition to the physical and psychological hardships they are forced to endure. Employers, in conjunction with policymakers, have a responsibility to provide for the financial well-being of victimized employees through public and private compensation programs and insurance policies.

BUSINESS COMMUNITY RECOMMENDATION FROM THE FIELD #15

Employers should develop and implement crime prevention and safety measures to protect their employees, clients, and customers.

Studies clearly indicate that crime has an impact on where people choose to work and where they choose to shop. This fact has important implications for all employers generally and retail business specifically. It is in the interest of both to develop and implement measures that deter crime and enhance safety in their workplace. Indeed, failure to provide minimum safety measure will likely expose employers and business to considerable legal liability from employees and customers alike.

Apart from adopting traditional strategies to enhance security, such as installing better lighting and surveillance cameras and hiring security guards, businesses can establish personnel practices which foster a safer workplace. For example, businesses need to take steps to secure their employees, including controlling how people enter and move about their premises and information concerning the whereabouts of employees. Employers should control access to secluded areas of their premises such as parking lots and restrooms and closely control keys and codes that access such areas. Personnel departments should conduct criminal background checks and adopt screening policies in their hiring practices. Managers should be trained to identify signs that may indicate violent tendencies among employees and develop strategies to deal effectively with such threats.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

Endnotes

1 "It was Silence Heard and Felt on Wall St.," *Denver Business Journal*, April 26, 1996, 1996 WL 10036078.

2 See generally, Isaac, N. E., *Corporate Sector Response to Domestic Violence*, supported under National Institute of Justice award No. 94-IJ-CX-0050.

3 "First Annual 'Friends of Janie' Memorial Run Scheduled for June 8", *Business Wire*, May 8, 1996.

4 "Bank of America Announces Donations to Police, Victim Organizations," *PR Newswire*, March 3, 1997.

5 "Outpouring of Help: From Superstar to Strangers, Hundreds Reach Out to Victims," *Newsday*, Nassau and Suffolk Edition, December 15, 1993, News Section:7.

6 Isaac, *Corporate Sector Response to Domestic Violence*.

7 See "High-Tech Protection for Victims of Abuse," *Los Angeles Times*, September 9, 1997, A1.

8 "Public-Private Effort to Aid Battered Women Begun," *The Richmond Times Dispatch*, March 26, 1997, B3.

9 "Artist Helps Woman Honor Memory of Slain Daughter," *Los Angeles Times*, March 20, 1997, Metro Section:5.

10 Bachman, R., *Violence and Theft in the Workplace*, Crime Data Brief, Washington, D.C.: U.S. Department of Justice, July 1994, NCJ 148199.

11 *Id.*

12 Survey of 1000 human resource professionals, of which 479 responded, conducted by the Society for Human Resources Management (SHRM). *Employee Assistance Program Digest*, March/April 1994, 25.

13 Dilworth, D.C., "Very Special Cases: Attorneys Seek Remedies for Victims of Terrorism," *TRIAL*, February 1, 1997, 1997 WL 9957654.

14 42 U.S.C. 12101 (see also, Department of Justice Internet Web Page on the subject: www.usdoj.gov/crt/ada/adahoml.htm)

CHAPTER 13

The News Media Community

The news media play a significant role in public safety by providing important information about the nature and extent of crime occurring in communities and efforts to prevent crime and assist victims. However, this coverage sometimes raises legitimate concerns about the rights of crime victims to privacy in the vulnerable aftermath of victimization, particularly in high profile cases. In some cases, victims perceive aggressive, insensitive reporting as a direct threat to their ability to grieve with dignity and to their personal safety.

Timely and sensitive coverage of victims' cases can be helpful, particularly when it publicizes the abduction of a missing child or provides information on emergency crisis services following a communitywide disaster. High-profile coverage of specific cases and emerging crimes has contributed to positive changes in public policy, including recognition of the need for community notification of released sex offenders and anti-stalking statutes. It has also helped to change public attitudes about the seriousness of violent crimes such as drunk driving and rape. But the media can have a negative impact on individual lives when victims are thrust, often unwillingly, into the limelight solely because of the crimes committed against them. Inaccurate reporting and insensitivity to victims' needs for privacy compound the trauma of crime and often revictimize the victim.

The President's Task Force on Victims of Crime did not issue recommendations specifically pertaining to the news media, although the longstanding ethical dilemma surrounding the public's right to know versus the victim's right to privacy has received substantial attention from media professionals, legal scholars, and crime victims and their advocates. One of the first formal examinations of the legal and ethical considerations of this crucial issue took place in 1986 at a Crime Victims and the News Media symposium in Fort Worth, Texas, sponsored by the Texas Christian University Department of Journalism and the Gannett Foundation. The symposium's participants concluded that ensuring responsible media coverage of crime and victimization is a two-way street. Journalists must become more knowledgeable about crime victims' needs and concerns, and victim service providers must learn more about issues and constraints journalists face when covering crime.[2]

> *Within the last decade, both crime victims and journalists have begun to ask whether crime reporting is victimizing the victims again. The issue is not what newspapers and the electronic media have a right to do legally. It's what we ought to do ethically. The records of crime and its prosecution are public records. The public has a right to know. But where does that right to know end, and where do the privacy rights of private citizens begin?*[1]

Tommy Thomason,
Professor of Journalism,
Texas Christian University

During the past decade, increasing numbers of media professionals have sought sensitivity training from crime victims and victim advocates to both improve the accuracy of their coverage and minimize the trauma it causes to victims. Today, crime victims and service providers offer training programs to newsrooms, professional journalism associations, and university-level journalism classes about media sensitivity in addressing violence and victimization.

In the past decade, several national victim advocacy organizations have developed media codes of ethics. A brochure published in 1987 by the National Victim Center (NVC), ***Victims' Rights in the Media,*** offers valuable guidelines for the ethical coverage of crime victims by print and broadcast media. In addition, the National Organization for Victim Assistance has developed a working policy for media coverage of victimization in ***The Victim Advocate's Guide to the Media*** that examines the areas of greatest concern to crime victims and their families.

Research Regarding Coverage of Sexual Assault Victims

Various studies indicate that crime victims, especially sexual assault victims, would be more likely to participate in the criminal justice system if the media were more respectful of their privacy. Data from The National Women's Study presented in ***Rape in America: A Report to the Nation*** found that 84 percent of rape victims in America do not report the crime to police. The study reported that:

- Half of rape victims (50 percent) would be "a lot more likely to report" to police if there was a law prohibiting the news media from disclosing their name and address; 16 percent indicated that they would be "somewhat more likely to report" rapes to the police.
- Almost 9 out of 10 women (86 percent) felt victims would be "less likely" to report rapes if they felt their names would be disclosed by the news media.
- An overwhelming majority of women (75 percent), rape victims (78 percent), and rape service agencies (91 percent) favored legislation that would prohibit media disclosure of rape victims' names.[3]

Recent surveys of American newspaper editors have shown that, as a general rule, many do not print the names of rape victims. In 1982, a study found that 68 percent of the editors surveyed believed that names of rape victims should not be printed.[4] In 1990, another survey of editors indicated that about 10 percent believed that the rape victims' names should never be printed; 40 percent believed that they should be printed only with the victims' permission; and 44 percent believed that they should be printed only in exceptional cases.[5]

Furthermore, more news media today are examining their policies on covering rape. A 1994 survey of newspaper editors revealed that:

- The topic of rape coverage had been discussed extensively in respondents' newsrooms, with nearly 60 percent of editors noting that their paper had seriously re-examined its policy on rape identification and 55 percent reporting that they had re-examined their policy on rape coverage in general.
- More than 40 percent of editors believed their newspaper was more sensitive toward rape victims than it was 5 years before, and more than 50 percent said they believed newspapers as a whole were more sensitive.
- Almost one-fourth of the editors (23 percent) disagreed with the idea that routine printing of the names of rape victims would remove the stigma of rape.
- Only 24 percent of editors agreed that not printing names of rape victims was a violation of the public's right to know.

The survey also indicated that editors believe that the decision to withhold a name should be the newspaper's and not mandated by legislation prohibiting the press from publishing the name of a sexual assault victim. Almost three-fourths of editors believed that such laws should be repealed because they violate the First Amendment.[6]

Guidelines for Journalists Who Cover Crime and Victims' Cases

The impact of media coverage on crime victims and survivors—positive or negative—depends to a large degree on the sensitivity with which journalists approach their reporting. Written guidelines incorporated into a news organization's policies, much like the guidelines news organizations have adopted in other sensitive areas, can provide journalists basic principles of ethical coverage of victimization. Once in place, they can be used as a tool for initial and ongoing professional education of media employees.

The guidelines on privacy issues developed by the *St. Louis Post-Dispatch* provide an example of ethical standards for major newspapers. They address such key issues as publishing names and addresses of crime victims and witnesses, interviewing family members of victims of crime, dealing with victims of crime who are juveniles, taking photographs that portray victims or survivors in private moments of deep emotion, and covering funerals, sexual abuse, incest cases, and kidnaping involving sexual abuse.[7]

The following has been excerpted from the *Post-Dispatch* guidelines to provide an example of what news organizations can do to ensure more responsible news reporting on crime and victimization and, in particular, vulnerable victims.

VICTIMS OF CRIME: General.

Crime victims often suffer long-term psychological problems that scar their lives. In many cases, victims identified in news stories about the crime involving them are further traumatized. Some feel humiliated by the community knowing what has happened to them. Others fear the criminal who victimized them, or his associates, will somehow use the information from the news story to threaten or harm them. Still others are afraid that the publicity has opened them to harassment from psychotic strangers.

Our policy on crime victims should provide readers with the most relevant information while underlining our concern for the well-being of the victimized.

VICTIMS OF CRIME: Names and addresses.

The general policy will be to publish the names of crime victims as an integral element of news stories.

Names will not be used of victims of sex crimes, pigeon drops and scams or other crimes that tend to humiliate or degrade the victim.

Names will not be used if identification is likely to endanger the life or health of the victim. Any request by police, a victim or representative of the victim to withhold the name from a news story for reasons of health or safety should be given great weight.

An exception to the policy of non-identification will be made for victims of degrading crimes who want to be identified or who seek publicity to serve as an example for others.

PHOTOGRAPHS.

Some of the sharpest controversies over invasions of privacy have resulted from sensational spot news photos at scenes of violent crime or other tragedy. . . . A common dilemma is the picture of the grieving relative. Such an image might capture a private moment of deep emotion that dramatizes the event in starkly human terms. But the intrusion of the press at that moment may be resented by many readers, not to mention the subject of the photograph. . .

Care must be taken in publishing pictures of victims of crime and tragedy, and relatives of victims. As a general rule, photographers should identify themselves and seek permission from the subjects to take such pictures, especially on private property.

SEX ABUSE: General.

The general policy of the *Post-Dispatch* is to question the use of names in all stories of a sexual nature. In reporting on sex crimes, our policy should be aimed at alerting the community and protecting the victim. Thus, we reiterate our long-standing policy of not naming rape victims and using only the most general identifying information, while naming and further identifying the accused when a warrant is issued.[8]

Legislation to Protect the Identity of Crime Victims

Feeling that the media's attempts to regulate themselves through victim-sensitive guidelines have not been adequate to protect victims, legislators have enacted laws to force more sensitive coverage. Some of these laws, however, have been held to be unconstitutional. In *State* v. *Globe Communications Corp.*, the Florida Supreme Court held that a Florida criminal statute that prohibited the media from identifying the names of sexual assault victims violated the First Amendment.[9] In that case, Globe Communications Corp. twice published the name and identifying information of a sexual assault victim, violating the Florida statute. The paper had lawfully learned the victim's name through investigation. The Florida Supreme Court relied on the U.S. Supreme Court's decision in *Florida Star* v. *B.J.F.*, finding that the Florida statute barring any media publication of a rape victim's name was unconstitutional because it was "overbroad"; that is, it punished the media even if, for example, the name of the victim was already known in the community.[10] It also found that the statute was "underinclusive" in that it punished only media publication and not acts by a private person.

Similarly, the U.S. Supreme Court in *Cox Broadcasting Corporation* v. *Cohn* ruled unconstitutional a Georgia statute that imposed civil liability on media for publishing a rape victim's name.[11] In *Cox*, the news station had obtained the victim's name from public court records—a factor the Supreme Court held to be important, noting that "the First and Fourteenth Amendments command nothing less than that the States may not impose sanctions on the publication of truthful information contained in official court records open to public inspection."[12]

Following these cases, several states enacted privacy statutes to conform with the First Amendment.[13] The legislation limits access of the public, including the media, to records that might otherwise readily reveal victims' names. For example, Florida's Crime Victims

When tragedy strikes, journalists are thrust into chaos and forced to make decisions on the fly. These decisions can impact the lives of everyone involved. Both journalists and criminal justice professionals must work as a team to meet the needs of the public while also protecting the rights of the victims. By understanding how the media works, criminal justice professionals can help reporters get the information the public needs to know. By understanding victims' rights, reporters can avoid the common errors of judgment that cause victims needless pain.

Robert Davis, National Reporter, USA Today

Protection Act, passed in 1995, strengthened the exception to the definition of public records by excluding court information containing the identity of victims of sexual crimes or child abuse.[14] While the new Florida statutes provide that the victim's identity may be released to the defendant and defense attorney, they also establish a specific procedure that, at the victim's request, can be employed to allow a trial court to determine that the victim's identity may not be made public through the court's proceedings or records.

Recommendations from the Field for the News Media

NEWS MEDIA RECOMMENDATION FROM THE FIELD #1

The news media should adopt codes of ethics or guiding principles that clearly delineate policies sensitive to and respectful of crime victims. These guidelines should include policies that discourage the identification of victims of sexual assault and other vulnerable victims, including children, without the victim's consent.

Written guidelines similar to those developed by the *St. Louis Post-Dispatch* can provide basic principles to guide ethical coverage of victimization. A number of news media organizations have established informal policies and practices to protect the privacy of sexual assault victims and children. However, these policies are often not given the authority of written guidelines. Both print and broadcast media should adopt written guidelines and provide training to employees regarding standards for their coverage of crime victims. Written guidelines should serve as a foundation for making difficult decisions about coverage—decisions frequently made hastily under deadline pressures.

> *I hurt when I hear about [crime] happening to other people, when I turn on the news or pick up the newspaper. But when it's yours that's on the news or in the newspaper, it's like a dream. And you're wondering when you are going to wake up.*
>
> Wife of a shooting victim

NEWS MEDIA RECOMMENDATION FROM THE FIELD #2

News organizations, victims, and victim-serving providers should sponsor frequent educational forums for journalists on sensitive media coverage of crime and victimization.

Journalists should be educated about how to cover sensitive stories involving crime victims, with training and technical assistance from victim service providers as well as crime victims themselves.

Professional media organizations should incorporate this training and panel discussions of sensitive coverage of victimization into their state, regional, and national conferences.

NEWS MEDIA RECOMMENDATION FROM THE FIELD #3

University departments of journalism should incorporate curricula that teach students about sensitivity to victims in the news media's coverage of crime.

Information and guidelines for dealing with crime victims should be incorporated into curricula for college and university classes in communications and journalism. Courses should cover the trauma of victimization, crime victims' privacy and safety concerns, services available to victims, and developing cooperative relationships with law enforcement and criminal justice officials in the coverage of crime and victimization. Victims themselves should be invited to classes to discuss their experiences with the media. Universities and colleges should use the handbook *Crime Victims and the Media*, published by the National Victims Center in 1989, as a resource for incorporating these topics in their journalism and mass media courses.

> *I'd like to see an article on how to avoid a specific abuser characteristic, or to make your apartment or car safe before assaults, abuse, or rape. So much can be done if people took an interest in saving people from abuse, and death from abuse.*
>
> A domestic violence victim

NEWS MEDIA RECOMMENDATION FROM THE FIELD #4

Victim service providers should receive education about media relations and how to be a valuable resource for the press. Training and technical assistance for service providers should be made available from professionals in the journalism community.

In addition to training, guidelines for providing support and guidance to victims about dealing with the news media in the aftermath of a crime should be made available to victim service professionals, law enforcement, prosecutors, clergy members, and others who might be called upon to provide advocacy and assistance. With funding from the Office for Victims of Crime, both the National Victim Assistance Academy, sponsored by the Victims' Assistance Legal Organization and a consortium of universities, and the National Organization for Victim Assistance have developed curricula that outline tools and strategies to help victim assistance providers work with the media.

NEWS MEDIA RECOMMENDATION FROM THE FIELD #5

The victim service and mental health professions, in conjunction with media representatives, should develop debriefing protocols to help journalists cope with the trauma and stress of covering crime and victimization.

Reporters, photographers, camerapersons, and editors are confronted with a daily barrage of violence and tragedy, with little guidance on how to cope with the personal trauma of witnessing and reporting these events. Some journalists are themselves victims of crimes similar to those they are assigned to cover.

Representatives of the news media, victim service providers, and the mental health community should work together to produce a protocol to give journalists who cover crime and victimization a means to address the stressful nature of their careers. News organizations should establish a debriefing and counseling program for all journalists who need such assistance.

NEWS MEDIA RECOMMENDATION FROM THE FIELD #6

State public policy leaders and media representatives should explore the development of legislation that would appropriately limit general public access to confidential information about sensitive victims.

As the U.S. Supreme Court has made clear, efforts to provide legislative protection of victims' privacy must take into account the important interests of the First Amendment. Several states have developed statutes that secure victims' privacy by eliminating confidential identifying information from public records. Other states may want to review these statutes.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

Endnotes

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11 420 U.S. 469 (1975).

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13 E.g., ALA. CODE § 15-23-69(b) (1995); ALASKA STAT. §§ 12.61.100-12.61.150 (1991); MASS. GEN. LAWS. ch. 258B, § 3(h) (1988).

14 FLA. STAT. §92.56, 119.07 (1995).

SECTION IV

New Directions in Financial Recovery

Each year, victims of crime suffer enormous financial losses. The costs of medical expenses, mental health counseling, and lost wages alone are estimated at $105 billion annually. This section addresses the three major avenues that victims can pursue to recover their financial losses due to crime: compensation, restitution, and civil remedies. Chapter 14 addresses crime victim compensation programs, which exist in every state and can pay for expenses such as medical care, mental health counseling, lost wages, funeral expenses, and crime scene cleanup. Chapter 15 discusses restitution, which can be ordered in juvenile and criminal courts as a way to hold offenders financially accountable for their crimes against victims. Finally, Chapter 16 addresses the potential financial as well as preventative remedies that crime victims can seek through the civil justice system.

The recommendations in these chapters address issues such as improving claims management, expanding benefits for crime victims, and utilizing technology to facilitate compensation programs. The restitution chapter calls for mandatory, full, and consistent restitution orders nationwide. In the area of civil remedies, recommendations focus on informing victims and victim service providers of the legal rights of crime victims to pursue reparations through the civil justice system. Each chapter also addresses the importance of education and training for criminal justice, victim service, and allied professionals, as well as victims themselves, about these potential avenues of financial recovery.

CHAPTER 14

Crime Victim Compensation

Compensation for victims of crime is one of the earliest forms of victim assistance. The first compensation programs in modern society were established in New Zealand and Great Britain in 1964 based on the concept suggested by British Magistrate Margery Fry in the late 1950s. In the United States, the first compensation program was established in California in 1965. New York, Hawaii, Massachusetts, Maryland, and the Virgin Islands soon followed suit, and by the time the President's Task Force on Victims of Crime released its *Final Report* in 1982, 36 states had established programs.[1] Today, all 50 states, the District of Columbia, and the Virgin Islands operate victim compensation programs.[2]

Compensation programs provide financial assistance to victims of nearly every type of violent crime including rape, robbery, assault, sexual abuse, drunk driving, and domestic violence. The programs pay for expenses such as medical care, mental health counseling, lost wages, and, in cases of homicide, funerals and loss of support.[3] With a few exceptions, however, they do not cover lost, stolen, or damaged property.[4] Most programs cover a basic core of offenses, although eligibility requirements and specific benefits of compensation programs vary somewhat from state to state.[5]

In 1996, state compensation programs paid approximately $240 million to more than 110,000 victims nationwide.[6] The range of total payments among states is considerable, varying generally by the size of the state. Ten states pay less than $500,000 annually and about 15 pay more than $3 million.[7] The states with the two largest programs, California and Texas, pay out nearly one-half of all compensation benefits.[8]

State programs have established limits to the maximum benefits available to victims that typically range from $10,000 to $25,000, although a few states have lower or higher maximums. For example, California, Maryland, Minnesota, Ohio, Texas, and Wisconsin have maximum award limits between $40,000 and $50,000. It is important to note that New York has unlimited medical coverage, and Washington State has established a $150,000 cap for medical injuries. In addition, many states have limits on specific compensable expenses such as funerals and mental health counseling. Nationally, the average amount paid to each victim applying for compensation is $2,000.

Crime victim compensation is one of the pillars of victim assistance. For thousands of crime victims each year, it serves as the primary means of financial aid in the aftermath of victimization.

Dan Eddy,
Executive Director
National Association of Crime
Victim Compensation Boards

State compensation programs are represented by the National Association of Crime Victim Compensation Boards (NACVCB), an organization founded in 1977 to provide advocacy, training, and technical assistance, and to foster communication among state programs. NACVCB provides a strong national voice on all matters affecting state compensation programs before Congress and the Office for Victims of Crime (OVC). In addition, it provides extensive training to its members on a wide range of issues facing programs today, from administration and funding matters to coverage of emerging areas of victimization.

In 1995 and 1996, with funding from OVC, members of NACVCB and advisers from victim assistance programs developed standards for state compensation programs to achieve four broad goals: effective outreach, training, and communication; expeditious and accurate claims processing; good decisionmaking; and sound financial planning. The states' progress in implementing these standards is discussed throughout this section and in the recommendations.

Compensation Issues Addressed by the President's Task Force on Victims of Crime

Fifteen years ago, the President's Task Force made one significant recommendation for crime victim compensation programs—the creation of a federal funding source to increase support for state compensation programs. That recommendation was followed in 1984 with the passage of the Victims of Crime Act (VOCA), which established the Crime Victims Fund. Today, the Fund reimburses states for up to 40 percent of their annual compensation payments to crime victims.[9]

In addition, the Task Force raised several concerns regarding state compensation programs, including the absence of emergency awards in some states to cover immediate needs for food, shelter, and medical assistance; the need to eliminate or raise the maximum allowable compensation award; the lack of coverage for domestic violence victims due to provisions barring victims living with their batterers from receiving compensation; and differences in residency requirements for eligible crime victims. Many of these problems have been remedied by subsequent federal and state legislation and by increased funding from both state and federal sources.

State compensation programs have grown dramatically since 1982 in the benefits they provide and the types of victims that qualify for these benefits. However, some concerns raised by the President's Task Force, such as the need for timely emergency awards and the raising of maximum limits on awards, have not been fully addressed by all states. While many compensation programs have undertaken extensive public awareness efforts, eliminated minimum loss requirements, and made efforts to cover such costs as crime scene cleanup and replacement of clothing for sexual assault victims, these gaps in coverage still need to be addressed.

Impact of the Victims of Crime Act

With the enactment of VOCA in 1984, each state compensation program became eligible to receive annual federal VOCA funds that by statute equaled 35 percent of the state's total payout in the previous year. Subsequent amendments have raised this amount to 40 percent and allowed states to use up to 5 percent of federal funds for administrative costs. The VOCA compensation grant program is administered by OVC, which also provides technical assistance to state compensation programs.

VOCA Program Requirements

To qualify for federal funding under VOCA, states must:

- Cover medical expenses, mental health counseling, and lost wages, as well as funeral expenses and loss of support for families of homicide victims.
- Consider drunk driving and domestic violence as compensable crimes.
- Not categorically exclude domestic violence victims because they are related to or living with the offender.
- Provide compensation for crime within their borders, even when the victims are from out of state.
- Comply with statistical reporting requirements.

In FY 1997, state crime victim compensation programs received $83,843,000 in federal matching funds from the VOCA Crime Victims Fund.

Victims must apply for compensation in the state where the crime occurs. Until the passage of VOCA, many states restricted coverage to their own residents, unless a reciprocal agreement was in place with another state. Since 1986, states have been required to cover both residents and non-residents, as well as victims of federal crimes. Only two states restrict eligibility to U.S. citizens.

Recent Trends in Compensation

From 1985 to 1992, victim compensation claims doubled, tripled, and even quadrupled in some states. The greater visibility of the programs, the growth in other victim services, and new laws mandating that rights, services, and information be provided to victims resulted in more and more victims applying for financial assistance.

Significant Landmarks in Crime Victim Compensation

- In 1965, California established the nation's first crime victim compensation program.
- In 1975, the International Association of Crime Victim Compensation Boards was established.
- In 1977, the National Association of Crime Victim Compensation Boards was created.
- In 1986, state compensation programs received their first funding from VOCA.
- In 1988, the Office for Victims of Crime began providing funding to the National Association of Crime Victim Compensation Boards to support a range of technical assistance and national training efforts. VOCA was also amended to require states to provide benefits to victims of domestic violence and drunk driving.
- In 1992, the first joint conference of state compensation and victim assistance administrators was funded by the Office for Victims of Crime.
- In 1995, with support from the Office for Victims of Crime, a national advisory body composed of state compensation programs and representatives of the victim assistance community established standards for state programs.
- In 1996, the passage of the Antiterrorism and Effective Death Penalty Act required compensation programs to make crimes involving terrorism compensable, regardless of where the terrorism occurs around the world.

More recently, the number of applications has leveled off in many states. Between 1995 and 1996, 23 states reported a slight increase in applications, and 26 states recorded a slight decrease. In addition, many states have moved to control costs and boost funding mechanisms. The result is that while some states are still struggling to pay all eligible claims, more and more have sufficient funds to do so.

The new challenge is for states with adequate funding to determine how best to use their funds and coordinate compensation services with other victim services in the community and across the state. Many compensation programs have increased outreach and public awareness efforts and are educating criminal justice personnel and allied professionals on compensation benefits. Programs are also working with victims and victim service agencies to identify uncovered expenses. Finally, compensation programs increasingly are using technology to improve program administration and deliver payments to victims more quickly and efficiently. For example, technology has allowed many programs to greatly increase the speed with which they process claims.

Eligibility Requirements for Victims

Each state has eligibility requirements victims must meet to qualify for compensation benefits. While eligibility requirements vary from state to state, virtually all programs require victims to:

- Report the crime promptly to law enforcement. Seventy-two hours is the general standard, although a few programs have shorter or longer periods. Nearly all states have "good cause" exceptions applied liberally to children, incapacitated victims, and others with special circumstances.

- Cooperate with police and prosecutors in the investigation and prosecution of the case.

- Submit a timely application to the compensation program, generally within one year from the date of the crime. A few states have shorter or longer deadlines, and most have the ability to waive these deadlines for exceptional circumstances. Children are generally excepted from timely filing requirements.

Victims are required to provide other essential information as needed by the program, and they generally are not eligible for compensation if the victimization giving rise to the claim resulted from the claimant's own criminal activity or significant misconduct.

The *VOCA Victim Compensation Final Program Guidelines* encourage state compensation program staff to meet with victims and victim service providers to carefully review whether state statutes, program guidelines, and policies are responsive to the needs of crime victims and to determine possible barriers that might impede a victim's cooperation with law enforcement.

Possible impediments to cooperation include apprehension about personal safety and fear of retaliation and intimidation by the offender or others. Some victims, for example, are reluctant to cooperate with law enforcement after offenders make threats of violence and death against them and their families. Age, psychological, cultural, or linguistic barriers may also influence the extent of victim cooperation with law enforcement. For instance, there may be special barriers deterring a young child or senior citizen from "reasonable cooperation." Likewise, embarrassment and shame may delay the reporting of sexual assault.

Compensation programs are "payers of last resort," meaning that the victim must exhaust all other sources of insurance or public benefits that could pay for medical care, funeral benefits, or counseling before receiving compensation. Since these sources must be used before compensation can be paid, eligibility depends on whether the expenses for which reimbursement is sought have not been or cannot be paid from some other source. If another source such as offender restitution could *potentially* make payment, the compensation program generally will pay first and then expect to be repaid if the victim later receives payment.

Another important eligibility requirement is that the victim cannot be engaged in criminal activity or in substantial contributory conduct to the crime. The eligibility of a victim's dependents or other secondary victims depends largely on the eligibility of the person who suffered the injury or death. If a homicide victim, for example, was engaged in criminal activity at the time of his or her death, the surviving family generally would not be eligible for benefits.

Compensation for Federal Victims

With the passage of VOCA, victims of crimes that occur under federal jurisdiction, such as on Indian reservations, military installations, national parks, and other federal lands, became eligible for compensation in the state in which the crime occurred. Because there is no federal crime victim compensation program, each state treats federal crime victims as fully eligible for all the benefits available for victims of state and local crimes. Compensation programs depend on the help of federal victim/witness coordinators to inform federal victims of their opportunity to apply for benefits, and many states have initiated cooperative efforts with them. States are now conducting joint training with federal and state law enforcement personnel and planning and implementing joint crisis responses to bank robberies.

Compensation for Victims of Crimes Occurring in Other Countries

A few states extend coverage to residents who are injured in other countries, but awards are usually conditioned upon the victim first applying in that country. A number of countries, including Canada, Great Britain, Germany, France, Sweden, and Australia, have compensation programs. In 1997, OVC and the U.S. Department of State compiled the *International Victim Compensation Program Directory*, which provides basic information concerning 30 countries' compensation programs.[10]

A significant development affecting international crime victim compensation was the passage of the Antiterrorism and Effective Death Penalty Act of 1996, which mandates that crimes involving terrorism become compensable crimes under state crime victim compensation programs receiving VOCA funds, regardless of where the terrorism occurs. To continue receiving VOCA funds, each state must ensure that a resident or nonresident injured by a crime involving terrorism occurring within the state is eligible for compensation. In addition, the state must cover its own residents injured in terrorist acts abroad.[11]

Benefit Criteria

All compensation programs cover the same major types of expenses, although their specific limits vary. The primary costs covered by all states are medical expenses, mental health counseling, lost wages for victims unable to work because of a crime-related injury, lost support for dependents of homicide victims, and funeral expenses. Nationwide, medical fees comprise well over half of the amount of all compensation awards, and lost wage and support payments comprise the next largest source. In a few states, 20 to 40 percent of awards are now paid for counseling, and compensation in this area is growing rapidly throughout the country. Of total claims awarded nationwide, 25 to 30 percent of recipients are children 17 years of age and younger.

> *Financial compensation is a tremendously important part of the assistance necessary to help victims recover from the effects of criminal violence. Each year compensation programs in every state across the country are helping tens of thousands of victims of child abuse, domestic violence, sexual assault, and other violent crimes put their lives back together.*
>
> **Ted Boughton,**
> **Deputy Executive Director,**
> **California Victims**
> **of Crime Program,**
> **State Board of Control**

In addition, many compensation programs pay for other essential expenses resulting from violent crime. They include:

- Moving or relocation expenses when a victim is in imminent physical danger, or when relocation is medically necessary in the aftermath of victimization.
- Transportation to medical providers when the provider is located far from the victim's residence or when other special circumstances exist.
- Replacement services for work such as child care and housekeeping the victim is unable to perform because of crime-related injury.
- Essential personal possessions lost or damaged during the crime. Eleven states will cover medically necessary equipment such as eyeglasses or hearing aids, but only a few will cover other items.
- Crime-scene cleanup or the cost of securing a home or restoring it to its pre-crime condition.
- Rehabilitation, which may include physical or job therapy, ramps, wheelchairs, and modification of homes or vehicles for paralyzed victims, and driving instruction.

The Alabama Crime Victims Compensation Commission has developed a separate assistance program for victims of domestic violence. The program pays awards of up to $500 to help domestic violence victims establish independent, violence-free living. Expenses covered include the costs of relocation, document replacement, transportation, and health and welfare needs.

Emergency Awards

Many states allow the program to make an emergency award to a victim within a few days or weeks. The maximum payment allowed under these awards ranges from state to state. However, emergency awards can pose significant problems due to the difficulty of verifying the claims under such expedited situations and because of the delays in processing other claims when staff must attend to emergency requests. Most programs limit emergency awards to cases of extreme hardship.

According to an October 1997 survey of compensation programs, 36 programs indicated that they provide emergency awards, while another two reported that they handle emergency requests by coordinating with VOCA assistance programs. Fourteen states do not provide emergency awards.[12] Of the states that do, most limit awards to between $500 and $2,000. Four states do not place caps on emergency awards under the total award amount.

A number of programs limit awards to instances when disability or death results in lost income and a subsequent problem in paying for food, shelter, and utilities. For other types of expenses, compensation programs reduce the need for emergency payments by calling medical providers, therapists, and funeral homes to ensure that services will be paid for upon review and acceptance of the victim's application.

Several state compensation programs have undertaken extra efforts to ensure that emergency support is available to crime victims.

- Delaware's program helped foster the development of a special fund that uses VOCA victim assistance funds to meet the emergency needs of crime victims when local and state resources and private insurance are not available. Up to $2,500 is available for emergency services such as crisis intervention, food, temporary shelter, transportation to services, and lock replacement. Financing for the fund comes from a VOCA assistance grant awarded to the Delaware State Police Victim Services Unit. All victim advocates in law enforcement and prosecutors' offices in the state can make requests for funds on behalf of crime victims. The fund is overseen by a committee of representatives from victim service programs.

- Vermont's program has established interagency agreements with sexual assault task forces located within law enforcement agencies to expedite emergency financial assistance to sexual assault victims. Law enforcement officers have been trained to provide enough documentation about the victimization to the compensation program so that an emergency award can be made within a few days.

There is considerable debate over whether compensation programs are the best vehicles for payment of emergency expenses. Many victim advocates and service providers believe that victim assistance programs should be funded to respond to the emergency financial needs of crime victims, noting that meeting these needs is one of the primary objectives of both VOCA compensation and assistance programs according to VOCA Guidelines. In addition, assistance programs are not limited by the eligibility requirements of compensation programs, and it will usually be quicker to seek assistance from a local victim assistance program than from a distant state agency. With the huge growth in VOCA assistance funding in recent years, state VOCA administrators should consider VOCA's emergency award requirement by providing more emergency funds to VOCA assistance programs.

Public Awareness of Compensation

Victims typically learn about crime victim compensation programs from local victim assistance providers, police, prosecutors, and public awareness products such as posters, billboards, and public service announcements. Public awareness of the availability of compensation is critically important because missing the application filing deadline is one of the most painful "second injuries" in the aftermath of victimization.

While some compensation programs have policies for increasing victim awareness of compensation benefits, implementation of the policies can be improved. Notable efforts to increase public awareness of crime victim compensation have been undertaken by many states, including Arkansas, Texas, and Ohio.

- Arkansas' compensation program distributes notification cards to crime victim service providers, law enforcement officials, and the state's victim/witness coordinators explaining how to help crime victims file a claim. The program's staff prepare monthly news releases with information about the compensation program and the awards that have been made to residents of that county. Members of the state's Crime Victims Reparation Board and the state attorney general and his staff frequently appear on radio and television talk shows to heighten public awareness. During a recent National Crime Victims' Rights Week, the compensation program organized a statewide victims' rights tour with rallies in more than a dozen cities. The program's Smart Choices, Better Chances initiative, funded by an education grant from the U.S. Attorney General's office, educates elementary school students about juvenile violence and the state's crime victim compensation program.

Efforts are also underway to increase awareness of victim compensation on the national level. The National Association of Crime Victim Compensation Boards, with support from OVC, developed significant outreach products to increase awareness about crime victim compensation support in 1996. The Association developed 30-second radio and television public service announcements and two 10-minute training videotapes, one for police and service providers and the other to increase awareness of compensation in Native American communities. Programs that undertake public awareness campaigns, however, need to be prepared for the influx of claims which may, in some states, outstrip available resources.

Using Technology to Enhance Claims Processing

Claims processing is the "nuts and bolts" of any crime victim compensation program. How it is accomplished speaks clearly about a state's commitment to serving victims of crime. Currently, the median time nationwide for processing and paying a compensation claim is 21 weeks, although it takes far less time in some states and more in others.

Many state compensation programs have implemented automated systems to process claims more quickly and accurately:

- New Mexico uses a software system in which staff enter all claim information into a database when the claim is opened. Thereafter, correspondence to the claimant, law enforcement agency, court officials, and service providers can be generated through the database. The software allows the program's director to monitor staff caseloads and productivity by generating aging reports and monthly claims processing statistics. All VOCA reports are also generated automatically. In addition, through the state's restitution database, program staff are able to monitor compliance with restitution orders, generate delinquency notification letters to offenders, and generate periodic restitution reports.
- Iowa uses different software, but it also provides the program director with an efficient way to track every claim from the moment the victim calls or writes to the office for assistance. Like New Mexico's system, the database can be used to generate correspondence with the victim, the district attorney, the courts, probation, and service providers.

The Office for Victims of Crime Mentoring Program

The Office for Victims of Crime established a nationwide compensation mentoring program in 1995 that facilitates state-to-state transfer of knowledge of compensation program staff expertise. Under this program in 1996 and 1997:

- Iowa's program modified its claims processing software to meet the specific needs of the District of Columbia, Kansas, Rhode Island, and South Dakota.
- Florida's program installed a copy of its compensation claims tracking software for use by the Mississippi program.
- California's program staff assisted Hawaii in evaluating their restitution process.
- New Mexico's program staff provided mentoring to the Vermont program to help improve its compensation claims processing system.
- Georgia's program staff visited the Texas compensation program to study claims processing, workflow, and program operations.

Funding of Compensation Programs

Two primary state sources, in addition to federal VOCA dollars, provide funding for victim compensation programs: funding from fees or charges that offenders pay in state and local courts and funding from general revenue appropriations from legislatures. According to the National Association of Crime Victim Compensation Boards, more than four-fifths of the states are in the first category, gaining most of their income from offenders. In fact, in a large majority of states, no tax dollars are involved in either the administration of programs or in the awards they provide to victims.

An increasingly significant funding issue facing compensation programs today is recovering restitution from convicted offenders to help offset the cost of compensation benefits to their victims. Programs are making special efforts to seek restitution from offenders, including working with prosecutors and judges to ensure restitution is ordered and collected.

Several states have developed systems that maximize collections from offenders, insurance, and other parties, and also hold offenders accountable. For example, California aggressively pursues criminal restitution payments owed to crime victims, collection of fines, and community outreach.

Iowa's program recaptures a full 15 percent of its payouts, primarily by mailing notification letters to county attorneys when a victim files a claim, and then again after he or she receives benefits. Iowa has also implemented strategies to initiate contempt of court proceedings against defendants who become delinquent in their restitution payments and garnish and assign their wages. To accomplish these reforms, Iowa pushed for legislative changes that:

> *A broader appreciation of the economic impact of crime and victimization, coupled with the intense desire to hold perpetrators accountable for their misdeeds, has resulted in the establishment of crime victim compensation programs in all states and a number of territories, passage of mandatory restitution laws at the federal level and in many states across the nation, as well as victims and their advocates turning to the civil justice system for relief.*
>
> Carolyn Hightower,
> Deputy Director
> Office for Victims of Crime

- Specifically list the compensation program as an eligible recipient in the restitution statute so the court can order the defendant to reimburse the program directly. The compensation program is listed second in the order of payment so that the defendant must first pay the victim for their noncovered losses.
- Allow the county attorney to attach a restitution lien to a defendant's property or other assets at the time of indictment so their assets cannot be divested if convicted.
- Enter all restitution orders as civil judgments, which permits the victim or the compensation program to execute a judgment for nonpayment of the debt.

However, fund recovery remains a small source income for programs across the country thus far, with only a few beginning to recover more than 10 percent of their awards.

Recommendations from the Field for Crime Victim Compensation Programs

The promising initiatives highlighted in this chapter, as well as the recommendations that follow, encourage compensation programs to increase their efforts to be strong advocates for crime victims, not only in striving to minimize the financial impact of crime, but working in conjunction with others to ensure that victims get the services and support they need.

The recommendations in this chapter address the following areas: improving claims management, expanding benefits for crime victims, removing barriers and making programs more accessible, enhancing outreach activities and collaborative partnerships, expanding program funding; conducting program evaluations, and applying technology to improve overall operation, communication, and efficiency. Compensation programs across the nation are implementing a number of strategies to meet these goals, and some of the most promising practices are highlighted throughout this chapter.

Both now and increasingly for the future, victim compensation programs must have a mission of service to crime victims to restore dignity and stability to their lives. Compensation programs must function as fully integrated partners in the broader community of criminal justice professionals, advocates, and service providers. Everything flows from this—the basic principles of broad participation in policy development and decision making, efficient claims management, and expanding coverage.

Judith E. Beals,
Chief, Massachusetts
Victim Compensation
and Assistance Division

COMPENSATION RECOMMENDATION FROM THE FIELD #1

Every state victim compensation program should establish goals to process claims, including emergency awards, in the most expeditious manner possible.

From the victim's standpoint, an important measure of a compensation program's performance is the speed with which it processes a victim's application for benefits. Delays in application processing can result in victims and survivors receiving harassing calls from bill collectors or delaying health or mental health treatment, as well as increased anxiety for crime victims and frustrations for service providers.

It is crucial for programs to impose internal performance standards for processing claims. States should strive to process claims within 90 to 150 calendar days in accordance with the goals established by the National Association of Crime Victim Compensation Boards in 1996. A number of compensation programs have boosted productivity tremendously through automated claims-tracking systems and compensation programs are encouraged to improve their technological capacity to speed processing. OVC continues to support the transfer of this technology and managerial expertise through its mentoring initiative. In addition, programs should notify victims as early as possible whether they are eligible to receive compensation to avoid making victims wait anxiously for months before learning whether they will receive an award.

Compensation programs should strive to process and pay emergency awards within 24 hours. However, because compensation programs must be cognizant of statutory requirements regarding police reporting and non-criminal activity, they may need to contact law enforcement to confirm the circumstances surrounding the crime before an emergency payment is made. States should consider the model used in Delaware and New Mexico, where compensation programs refer some emergency requests to designated VOCA assistance programs that have access to special VOCA emergency grants and are not under the same statutory restrictions as state compensation programs. Moreover, compensation programs should be aware that some victim service programs can help victims meet emergency needs by providing food, clothing, transportation, and shelter, and services such as boarding up broken windows, replacing locks, and arranging security measures.

COMPENSATION RECOMMENDATION FROM THE FIELD #2

States should examine the nature, level, and scope of benefits they provide for mental health treatment to ensure that all victims traumatized by crime receive financial support for adequate and culturally meaningful counseling services or healing practices. To achieve this goal, victim compensation programs should consult with advisory groups composed of mental health experts to develop guidelines for counseling benefits, including appropriate treatment lengths and types of mental health providers, documentation requirements for treatment plans and progress reports, and payment levels.

> *A woman in her late 60s was raped and murdered. That was nearly 4 years ago. The case has not yet gone to court because of strategically filed motions, one of which was the issue of whether the victim was alive or dead when she was raped. Victims' crime compensation will only pay up to 3 years of counseling. This is still an ongoing traumatic experience in which the family of the victim no longer receives compensation.*
>
> A Rape Crisis Advocate

Compensation programs have an obligation to review whether they are dealing appropriately with the mental health needs of crime victims. Mental health counseling benefits covered by state compensation programs vary greatly across the nation. Currently, 22 states do not place a limit on the amount of mental health benefits they will award, and victims in those states can qualify for mental health coverage up to the state's maximum compensation award. The other states restrict mental health benefits to some degree, generally by: limiting the length of treatment for which compensation may be awarded, limiting the number of counseling sessions that may be covered, or imposing a maximum dollar limit for counseling benefits.[13]

In the few states that limit the length of allowable treatment, limits generally range from 6 to 18 months. In states that limit the number of compensable counseling sessions, the number generally ranges from 26 to 50 sessions. In states that limit benefits to dollar amounts, allowable compensation ranges from $1,500 to $5,000. However, there are numerous exceptions to these restrictions. Several states apply distinct criteria depending on the type of crime or the age of the victim. For example, California allows up to $10,000 for direct victims and surviving family members of homicide victims, Florida allows up to $2,500 for adult victims and $10,000 for minors, and Idaho allows up to $2,500 for direct victims, $500 for surviving family members of homicide victims, and up to $1,500 per family following sexual assaults.

For child victims, 29 states provide $10,000 or more in counseling benefits. Of those states, 18 can authorize $25,000 or more, six provide at least $5,000, three provide $3,000, five provide $2,500, three provide $2[illegible]00, and one provides $1,500.

Victim advocates and crime victims have raised the concern that some state ceilings on counseling benefits may be too low, especially for victims of catastrophic physical injury, sexual assault, domestic violence, and child abuse. Compensation programs should be cognizant of research findings that may inform their policies and standards, and should consult with therapists to gain better insight into victims' needs, particularly children. Standards for mental health treatment should also be informed by the advice and input of advisory groups comprising leading representatives of the mental health community.

COMPENSATION RECOMMENDATION FROM THE FIELD #3

Victim compensation programs should expand the types of victims eligible to receive counseling benefits.

All but six states compensate surviving family members for mental health counseling. Every state should provide this vital service. Losing a loved one to homicide is one of the most traumatic events a person can experience. Survivors of homicide victims experience feelings of intense grief and overwhelming loss, often accompanied by guilt, shame, anger, depression, isolation, and spiritual crisis. Survivors face a long period of emotional struggle, and mental health counseling should be available to help them rebuild their lives.

We had to deny mental health counseling benefits to a grandparent for a deceased grandchild as they were not considered 'eligible applicants' through the victim compensation program.

A Claims Analyst
Crime Victims Compensation

Children who witness violence—the silent victims—should have access to counseling paid for by compensation programs. According to recent research conducted by the Medical University of South Carolina with funding from the National Institute of Justice, 43 percent of male adolescents and 35 percent of female adolescents surveyed had witnessed some form of violence firsthand, and of these young witnesses, 15 percent developed post-traumatic stress disorder (PTSD), compared to 3 percent of surveyed youths who had not witnessed violence.[14] Research also reveals that exposure to violence adversely affects children's development, emotional stability, and risk-taking behavior. Children who display symptoms of PTSD should be treated by specialized mental health services and psychotherapists with expertise in childhood PTSD, depression, and grief/mourning.[15]

In a recent survey conducted by the National Association of Crime Victim Compensation Boards, two-thirds of the states indicated that they are authorized to pay for counseling for children who witness domestic violence.[16] Some state compensation programs fund benefits for all child victims and witnesses, and a few states are making special efforts to help secondary victims. Utah and Iowa now pay up to $1000 for mental health counseling for secondary victims who witness or are traumatically affected by violent crime, including children who are psychologically harmed by incidents of domestic abuse.

In addition, the needs of many white collar crime victims are overlooked. Traditionally, counseling services are provided to victims of violent crime but are not generally available to victims of serious white collar crimes such as telemarketing fraud. These crimes have severe consequences in the lives of their victims. Fraud, for example, can have a devastating impact by depriving people—often seniors—of their life savings. Compensation programs should evaluate how they can assist victims of white collar crime who suffer significant financial loss, particularly by providing intervention with the elderly, who are especially vulnerable to revictimization.

Finally, compensation programs should evaluate whether the mental health needs of workplace violence victims are being met, including bank tellers and other people present in banks when they are robbed. In some states, these people are considered witnesses, not victims, despite the high level of trauma they suffer. Large financial institutions have established policies for addressing the immediate needs of employees in the aftermath of a bank robbery. These institutions provide on-scene crisis response and immediate counseling services as well as referrals for victim assistance and other support services available through employee assistance programs. However, where crisis intervention services are not made available by financial institutions, victim compensation programs should extend compensation to cover counseling services.

My little boy was struck by a drunk driver and was in a coma for 10 weeks. The [driver] had no insurance and we are stuck with the bills, which have now topped the $500,000 mark. We lost our home and my ability to support my family. All because of a drunk driver.

The father of a drunk driving crash victim

COMPENSATION RECOMMENDATION FROM THE FIELD #4

Victim compensation programs should increase medical benefits for victims of catastrophic physical injury.

Occasionally, a victim's losses due to catastrophic injury exceed the state program's cap on benefits. Victims who are permanently disabled as a result of their victimization will likely pay for installing wheelchair ramps in their homes, modifying vehicles, as well as other transportation, communication, or medical aids.

Compensation programs must go beyond the norm to help victims who are significantly injured as a result of crime. Two states have done so by raising their maximum amounts of medical benefits. The state of Washington provides up to $150,000 in medical benefits for victims of catastrophic injury, and New York provides unlimited medical coverage. In addition, Texas provides a separate compensation award for special home and health aids for victims of catastrophic injury.

State compensation programs should strive to increase compensation coverage for victims who have suffered serious injuries. The 1997

VOCA Victim Compensation Final Program Guidelines allow states to include expenses not specifically identified in VOCA, such as medically necessary devices and building modifications, in their annual certification to OVC,[17] which is the basis for determining the amount of federal funding a state will receive.

COMPENSATION RECOMMENDATION FROM THE FIELD #5

Victim compensation programs should eliminate restrictive statutory reporting requirements and permit victims to report the crime within a reasonable period of time and to agencies other than law enforcement.

Most state statutes governing compensation programs mandate that victims report the crime to law enforcement within a limited period of time, generally 72 hours. The large majority of states have already removed, in practice or by statute, this reporting requirement for cases involving child sexual abuse. Moreover, many compensation programs currently allow victims to delay reporting for legitimate reasons such as incapacity due to injuries or hospitalization.

Research indicates that the majority of some categories of crime victims, such as sexual assault victims, never report the crime to law enforcement because of their fear of participating in the criminal justice system and retaliation from the perpetrator. A nationwide study of rape victims found that only 16 percent report the crime to the police, and more than half of these victims do not report the crime immediately.[18]

Many victims, including victims of domestic violence and gang violence, often report late, if they report at all, due to threats of intimidation and legitimate fears of physical retaliation from significant others, caretakers, employers, and friends. Only with counseling and encouragement are many victims able to acknowledge their victimization, even to their closest associates, and report it to law enforcement. The requirement of immediate reporting to law enforcement denies these victims compensation they could use to pay expenses for important services such as medical care, counseling, and funeral arrangements. It is time for states to reassess their reporting requirements and remove unrealistic barriers for victims to receive compensation.

In 1997, Texas removed its statutory time requirement and now requires that a report be made "within a reasonable period of time so as not to unduly interfere with or hamper the criminal justice investigation."[19] It did so after learning that most rape crisis centers discourage victims from filing claims if they had not reported the crime to law enforcement within 72 hours. New York allows the report in family violence cases to be made to the family court in the form of a petition for an order of protection or a determination that a family offense occurred. California does not set a time limit on when a report to the police must be made, rather it simply requires that the report be timely. In addition, California accepts reports to law enforcement in domestic violence cases from sources other than the victim, including battered women's shelters, friends, relatives, neighbors, and members of the clergy.

COMPENSATION RECOMMENDATION FROM THE FIELD #6

Statutorily mandated time restrictions on filing claims that require crime victims to apply for compensation within one year of the crime should be reevaluated. State compensation programs should consider eliminating filing restrictions or at least extending the time limit to three years, as was done in Texas and Massachusetts.

There is no longer a reason that there should be a time limit. The issue is: Can the victim prove the claim and is the information available to make an informed decision?

Richard Anderson,
Director, Texas
Compensation Program

Every state except Vermont requires that victims submit a timely application to the compensation program, generally within one year of the date of the crime. While filing deadlines historically have been a part of compensation program requirements because of a legitimate need to have accurate documentation, according to Lori Hayes, Executive Director of the Vermont Center for Crime Victim Services, they impose "an artificial and harsh burden upon victims who very well may be overwhelmed by the trauma of the victimization and the frustration of dealing with a slow-moving criminal justice system."

Some states have even shorter filing deadlines than the standard one-year limit. Six states require that victims file a claim within 6 months after the crime occurs. Other states have longer timeframes. Nine states allow victims to file a claim up to two years after the crime, and two states, Massachusetts and Texas, have extended the filing deadline to three years.

The majority of states waive or extend the filing deadline for victims of child abuse. This is especially critical because child abuse victims should not be penalized when their parents fail to file a timely claim. Because the effects of child sexual abuse may not be manifested until adolescence or later, child victims should be permitted to apply until the age of 21. A number of states also make good cause exceptions for victims of sexual assault and domestic violence, as well as for the elderly and victims with disabilities.

For victims who are significantly traumatized by a crime, such as survivors of homicide or victims of sexual assault, the effort required to file a claim may be too overwhelming to undertake for many months. This legitimate hardship should not jeopardize their eligibility for receiving a compensation award. Other victims may not have been informed of their right to receive compensation within the filing deadline. For example, Mothers Against Drunk Driving (MADD) has reported several cases in which badly injured victims of drunk driving crashes were not informed by law enforcement of possible compensation benefits or referred to MADD or other groups for counseling services. Eventually, these victims contacted MADD, but the filing deadline to receive a compensation award had passed and their claims were denied.

Recognizing that the real concern should not be the timeliness of claims but rather the availability of accurate information to support them, the Texas Legislature recently extended the state's filing deadline to 3 years. This reform should be seriously considered by other states so that compensation is available to the greatest number of injured victims, including those who are not notified of their right to compensation benefit by those responsible for doing so.

COMPENSATION RECOMMENDATION FROM THE FIELD #7

Every victim compensation program should coordinate with victim assistance programs to develop an effective community outreach strategy to increase public awareness about the purpose and availability of crime victim compensation. This strategy should include extensive outreach efforts to ensure that all victims, regardless of their race, culture, or language, have knowledge of and access to compensation program benefits.

Compensation programs must widely publicize the availability of compensation benefits for crime victims. A major focus of any outreach program must include educating those who work with victims of crime on a daily basis, including law enforcement officers, victim service providers, advocates, and medical and mental health professionals. Ultimately, it is the responsibility of every person who assists victims on the frontline to inform them that they may be eligible for compensation.

A man whose son was killed by a gun shot had made arrangements and paid for the funeral himself before I was brought into the situation. He was so grateful to learn about crime victim compensation and to be reimbursed for those expenses. Without victim assistance being involved he would have never been told of these benefits.

A Victim Advocate

Program outreach efforts should, at a minimum, include distribution of program brochures and applications throughout the state, as well as use of television and radio public service announcements, posters, community billboards, and the Internet. Hospitals, libraries, counseling clinics, child care centers, physicians' offices, and funeral homes should be among those targeted for outreach.

Every victim service provider and police officer should provide timely information about crime victim compensation benefits to crime victims. They should follow up with the victims after the crime to see if they understand the compensation process and need assistance in applying. Very often in the immediate aftermath of victimization, it is difficult for victims to focus on the issue of compensation.

Compensation programs should routinely evaluate whether they are adequately serving special population groups and should reach out to those who, because of cultural or language barriers, may not be accessing compensation assistance. Some compensation programs have undertaken extensive public awareness efforts to reach traditionally underserved crime victims. These efforts include developing public service announcements in languages other than English. The state of Washington's compensation program, for example, has developed pocket-sized cards describing compensation in 12 languages. The Massachusetts Attorney General's Office reports success in reaching non-English speaking crime victims through the Victims' Division of the International Institute of Boston, which provides translation and other language services. The Institute is part of a national network operated through Immigration and Refugee Services of America.

> *I can't think of a better way to bridge the gaps in services, or to effectually provide a 'continuum of care' for victims of crime, than to join forces with our victim assistance colleagues. Through a unified, coordinated approach, victim compensation and victim assistance professionals can more adequately meet the fundamental needs of victims. This is what we as professionals want, this is what victims of crime need.*
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> Ann DelNegro,
> Executive Director,
> Delaware Violent Crimes
> Compensation Board

COMPENSATION RECOMMENDATION FROM THE FIELD #8

Victim compensation programs have a responsibility to listen to and address the issues of the victims they serve. All programs should establish advisory boards that include victims. When developing policies for eligibility and benefits, compensation programs should seek the input of victim service groups, and criminal justice and allied professionals.

Victims who have applied for compensation can provide helpful information to programs about their strengths and weaknesses. Their advice, and that of their advocates, can be solicited through appointments on boards, commissions, and advisory bodies that assist with program development and implementation.

Some compensation programs have established advisory boards, although only a few are mandated by state law to do so. To ensure that the policies, procedures, and communications of the compensation program are fully informed by the experiences of crime victims, at least one of the members should be a crime victim or survivor. While all states should strive to establish advisory boards, those programs that have not should routinely meet with victims and victim service providers to review whether state statutes, program guidelines, and policies are responsive to the needs of crime victims and to determine possible barriers that might impede a victim's access to compensation benefits.

Compensation programs must work to ensure that their programs and policies coordinate with and complement the range of services and assistance provided to victims in the state. When making policy decisions, compensation programs should seek input from local victim service groups, as recommended in the *VOCA Compensation Guidelines.*[20]

Victim services is an evolving field. In order to continually meet the needs of crime victims we need to take the time to listen to victims. We need to learn how to serve them better.

Sylvia Bagdonas,
Director,
Wyoming Crime Victims
Compensation Program

COMPENSATION RECOMMENDATION FROM THE FIELD #9

Victim compensation programs should establish multidisciplinary cross-training programs to ensure that victim advocates and allied professionals are fully informed of the scope of compensation programs and that compensation professionals are kept up to date on the services victims need most.

Cross-training is essential to a responsive, accessible compensation program. It is important that victims and those who serve them have a thorough understanding of the requirements for receiving compensation, the process for applying for benefits, and the legislative and programmatic limitations of assistance. In addition to general outreach, compensation programs should conduct trainings and briefings throughout the state on a regular basis, and should ensure that adequate training is available for law enforcement, prosecution, emergency room staff and other medical providers, and victim service providers.

At the same time, in order to ensure that compensation programs are responsive to the needs of crime victims, compensation professionals should build strong relationships with victim assistance providers, advocacy groups, and criminal justice professionals. Training of compensation program staff on issues these groups encounter in working with crime victims will help programs address emerging needs.

COMPENSATION RECOMMENDATION FROM THE FIELD #10

Victim advocacy should be institutionalized in victim compensation programs. Every program should include an advocate on staff to help victims access services and resources that are not available from the program.

Victim advocacy skills and knowledge should be emphasized in all hiring and training decisions to ensure that all staff are skilled at addressing the broader needs of crime victims. Compensation program staff should focus not only on proper claim documentation and expeditious claims processing, but also in assisting victims in accessing services outside of compensation. Ideally, every compensation program should provide victim advocacy by intervening with creditors, making referrals to victim assistance programs throughout the state especially for victims who are not eligible for compensation, providing assistance in the filing of a claim, or simply taking extra time to explain the compensation process.

In larger programs, victim advocacy may require more than one staff position. Florida's compensation program employs nine victim advocates throughout the state to assist victims with filling out and filing compensation claims. Massachusetts' compensation program employs advocates to assist victims through the entire claims process, including translation for non-English speaking crime victims. In 1997, the *VOCA Victim Assistance Program Guidelines* were revised to allow VOCA victim assistance grant funds to be used to support such positions.[21] As a result, the District of Columbia's compensation program recently hired a full-time advocate to assist victims who apply for compensation within the District.

In some states, compensation claims processors also serve as victim advocates. It is critical that these individuals receive training on providing services for traumatized victims, including making appropriate referrals to resources in the victim assistance community. States that include victim advocates as part of their compensation program staff find not only that the advocates are helpful to victims but that they help raise awareness of the impact of victimization and the important role that compensation plays within the community.

COMPENSATION RECOMMENDATION FROM THE FIELD #11

States should maximize victims' ability to recover losses and cover expenses, and should institute mechanisms for ensuring sufficient funding sources for victim compensation programs.

Although the total amount of state funds awarded to crime victims has nearly tripled since the enactment of VOCA in 1984, some states continue to experience funding crises and are unable to pay claims for all of the eligible applications they receive. Programs should continue to ensure the availability of resources by exploring new funding options and maintaining reasonable controls over costs. In cases in which the victim's losses exceed the program's maximum payment, programs should, in addition to expanding caps, intercede with creditors and providers and request that they accept reduced payment on a victim's outstanding bills. This is often a viable alternative to spending more money. It is also in keeping with the financial advocacy and service mission of compensation programs. For example, Massachusetts recently assisted a victim with lost wages and over $40,000 in medical bills by negotiating with the victim's providers to accept $7,000 on the outstanding bills. As a result, the program was able to reimburse the victim for lost wages and pay for the purchase and fitting of a prosthesis under the state's $25,000 cap.

Some states have found restitution to be a significant source of additional revenue. Restitution payments can serve a dual purpose: first, they can be used to cover victims' expenses that cannot otherwise be met through compensation; second, programs can be reimbursed, through a process known as subrogation, for compensation payments made to victims who subsequently receive restitution for the same expenses.[22] When compensation programs pursue restitution from offenders, however, they should ensure that restitution payments are applied first to cover losses not covered by the compensation program. This requirement should be mandated by law.

To be effective at recovering restitution, compensation programs must establish partnerships with local criminal justice agencies. Both California and Iowa, who have established such partnerships, have made significant strides in increasing payments to victims and securing program revenues by aggressively pursuing criminal restitution payments owed to crime victims and fines or fees owed to the compensation fund. California's program worked closely with prosecutors and the courts to develop strategies to increase collections. Their collaborative efforts resulted in the enactment of legislation to facilitate restitution collection, including the establishment of a rebate program allowing a 10 percent reimbursement to counties on all restitution fines remitted to the state's compensation program. In addition, a wage garnishment program was established within the state's department of corrections that deducts 20 percent of inmate wages to pay outstanding restitution fines. Iowa's program more than doubled its restitution and subrogation revenues by urging prosecutors to seek restitution, urging probation and parole officials to collect restitution payments, and contacting offenders directly for payments. The program also initiated an automated computer system to assist in garnishing wages and seizing income tax refunds from delinquent offenders. These innovative efforts should be replicated by other compensation programs to increase program revenue.

COMPENSATION RECOMMENDATION FROM THE FIELD #12

All state compensation programs should evaluate themselves to determine whether: (1) there are barriers to compensation that should be removed, (2) the program's outreach efforts are effective, (3) the services provided are effective, (4) the scope of victims that qualify for compensation is broad enough, (5) claims are processed as efficiently as possible, (6) available benefits for mental health treatment are sufficient, and (7) reasons for denial of compensation claims.

All victim assistance programs, including state compensation programs, should be evaluated on a regular basis. In addition, state compensation programs should develop customer satisfaction surveys and provide them to victims for their input. Some states such as Wyoming and Iowa routinely send client satisfaction surveys to all approved and denied claimants to solicit input into the state's processes, benefits, and services. OVC is currently supporting a nationwide evaluation of compensation and assistance programs, and findings are scheduled for release by the year 2000.

COMPENSATION RECOMMENDATION FROM THE FIELD #13

Compensation programs should make effective use of advanced technologies such as automated claims management systems and electronic linkages with medical providers, insurance companies, and criminal justice agencies.

An automated system for processing victim applications can significantly increase a program's ability to serve crime victims efficiently and expeditiously. Many programs have moved from manual to automated operations and have implemented strategies for correcting inefficiencies. An automated claims management system enables program staff and managers to quickly retrieve information from a victim's application form to generate routine correspondence, verification requests, and statistical reports.

Compensation programs should also explore ways in which technology can foster communication with local service providers and facilitate victim referrals among programs throughout the state. Victims and advocates in Oklahoma, Texas, Iowa, and other states now have the ability to download compensation applications from the Internet,[23] and Florida operates an automated telephone system for medical providers and others to use to receive current information on claim status. These services provide valuable information to the public while freeing staff time to process victim applications. However, no programs currently allow applications to be filed electronically.

OVC encourages states to use their VOCA administrative grant funds to explore innovative approaches to using technology to facilitate claims filing and expedite claims processing. Compensation programs should take advantage of emerging communications technologies such as the Internet to inform victims and the general public about the availability of victim compensation. Many compensation programs have established websites on the Internet that provide information about eligibility requirements and application procedures.[24]

COMPENSATION RECOMMENDATION FROM THE FIELD #14

State compensation programs should work with other state programs that provide funding for victim services to ensure that victims' needs are met comprehensively throughout the state.

The need for state compensation programs to be aware of the range of victim services funded throughout the state has been raised in many of the recommendations in this section. Many compensation programs provide extensive referrals to victim assistance programs and should work with state level funding agencies to identify local victim assistance programs and areas in which services are lacking. In some states, services such as counseling, shelter, crime scene cleanup, emergency transportation, and child care are provided by local victim assistance programs. In others, compensation programs must fill in the gaps. Many state compensation and assistance programs are working together, even functioning out of the same state agency. In other states, compensation programs need to enhance their partnerships with other victim service funding agencies.

COMPENSATION RECOMMENDATION FROM THE FIELD #15

Compensation programs should consider the effects that more universal health care coverage (through expanded public benefits and broader private coverage) might have on their eligibility and benefits structures.

Most other countries with victim compensation programs also have some form of national health care that provides coverage to all citizens for medical treatment. As a result, victim compensation can be used to address the effects of long-term psychological or physical injuries, to make payment for pain and suffering, and to reimburse property losses. While the debate on a national health care program in the United States has moved into the background of public policy issues, efforts at the federal and state levels to provide more coverage to greater numbers of Americans are continuing. It is possible that the United States may eventually achieve more universal coverage, which likely would have a substantial effect on the payments made by compensation programs for medical care, which is currently the largest source of claims nationwide. To be prepared for the future, compensation programs should explore ways in which victims can be served beyond current benefits by using any funds freed by future national changes in medical coverage.

COMPENSATION RECOMMENDATION FROM THE FIELD #16

Compensation programs throughout the world should agree to compensate victims of crime within their borders regardless of nationality. The U.S. Departments of State and Justice should continue to work together to establish this principle as a basis for coverage in all countries.

Nearly all compensation programs in the United States provide coverage to foreign citizens injured in their jurisdiction. U.S. residency and citizenship are not required for eligibility. A number of other countries, however, including France and Japan, have either nationality or residency requirements. The principle of universal coverage, regardless of citizenship, should be extended throughout the world through changes in law, or reciprocal agreements if necessary. Representatives of the U.S. Department of Justice have participated in a number of forums to discuss these issues, and they should continue to work with the State Department and state governments in the United States to make universal coverage for all travelers a reality.

COMPENSATION RECOMMENDATION FROM THE FIELD #17

Compensation programs should consider providing funds to cover transportation costs for victims who must travel across state lines to attend criminal proceedings.

In some cases, victims and their families must travel to other states to attend trials. For example, in the Oklahoma City bombing cases, many victims traveled from Oklahoma City to attend the trials in Denver. Compensation programs should consider reimbursing victims when the costs of traveling to criminal proceedings would create hardship.

COMPENSATION RECOMMENDATION FROM THE FIELD #18

Compensation programs should use excess funds to support victim assistance.

Compensation programs should maintain sufficient reserves to guarantee prompt payment of victims' losses, provide greater levels of benefits, and expand coverage to more victims. While programs must be careful to maintain a healthy flow of funds, they should, in appropriate circumstances, consider using reserves far in excess of current and projected needs to support activities that benefit victims.

States that have excess funds in their compensation programs should find ways to ensure that the money remains earmarked for crime victims and is not diverted for other purposes. The Texas Constitution, for example, has been amended to dedicate the Texas Crime Victims' Compensation Fund to crime victims, protecting the money it provides to local rape crisis centers, family violence shelters, children's advocacy centers, and similar programs.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

Endnotes

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3 National Association of Crime Victim Compensation Boards, *Crime Victim Compensation Program Directory,* 1.

4 *Id.* One notable exception is crime scene clean-up incident to violent crimes.

5 D. Parent, B. Auerbach, B and K. Carlson, *Compensating Crime Victims: A Summary of Policies and Practices,* Washington, DC: U.S. Department of Justice, Office for Justice Programs, National Institute of Justice, 1992, NCJ 136500.

6 *Nation Wide Analysis, Victims of Crime Act, 1996 Victims of Crime Act Performance Report, State Compensation Program,* Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, April, 14 1997.

7 The information was provided by the National Association of Crime Victim Compensation Boards and reflect information provided by the U.S. Department of Justice, Office for Victims of Crime, 1996.

8 California operates the nation's largest program, paying nearly one-third of all compensation benefits nationwide (approximately $75 to $80 million annually). The second largest program, Texas, pays out approximately $20 to $30 million to victims each year.

9 *Victims of Crime Act of 1984,* Pub. L. No. 104-235, codified at 42 U.S.C. §10601-10605, 18 U.S.C. §3050 (1996).

10 Office for Victims of Crime, *International Crime Victims Compensation Program Directory,* Washington, D.C.: Office of Justice Programs, U.S. Department of Justice, 1996. To create the *International Directory,* U.S. embassies in 174 countries were contacted and asked to collect compensation program information from the appropriate officials in each country. OVC also contacted victim assistance programs throughout the world. Of the 91 countries responding to the survey, 30 reported having compensation programs, and they are listed in the *International Directory* with programs in the United States.

11 Office of General Counsel, *"Office of General Counsel (OGC) Recommendations for Bringing State Statutes into Compliance with the Requirements of the Antiterrorism Act under VOCA."* Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of General Counsel. The new provisions of VOCA pertaining to crimes involving terrorism are located at 42 U.S.C. 10602(b)(6)(B) and (d)(3).

12 Telephone survey by Dan Eddy, Executive Director, National Association of Crime Victim Compensation Boards, October 1997.

13 National Association of Crime Victim Compensation Boards, *Crime Victim Compensation Program Directory.* In addition, this information was compiled into a chart entitled *Mental Health Counseling Limits,* compiled by the National Association of Crime Victim Compensation Boards, September 1997.

14 Kilpatrick, D. and B. Saunders, *Prevalence and Consequences of Child Victimization,* Research Preview, Washington, D.C.: National Institute of Justice, April 1997.

15 Commentary "Silent Victims, Children Who Witness Violence," *Journal of the American Medical Association,* 1993:269:2 at 262- 264.

16 National Association of Crime Victim Compensation Boards, "Rules, Benefits Adapted for Domestic Violence," *Crime Victim Compensation Quarterly,* Autumn 1997:3.

17 *VOCA Victim Compensation Final Program Guidelines,* February 1997, III.B.3 provides: "Compensable expenses to be included in the annual certification must be authorized by state statute or rule, providing there is a rule making authority in state law. States may include expenses, not specifically identified in VOCA, such as pain and suffering; crime scene clean-up; replacement costs for clothing and bedding held as evidence; medically-necessary building modification; medically-necessary devises; and attorney fees related to victim's claim for compensation."

18 Kilpatrick, D.G., C.N. Edmunds, and A.K. Seymour, *Rape in America: A Report to the Nation,* National Victim Center & Medical University of South Carolina, 1992.

19 TEX. CODE CRIM. PRO. art. 56.46 (West 1997).

20 *VOCA Victim Compensation Final Program Guidelines,* February 1997, III.A.4.

21 *Id.*, IV.E.1.c.

22 Compensation programs are "subrogated" to the victim for any expenses the victim recovers from the offender or a third party. That means that if the victim recovers any money from the offender or any other party liable for the victim's expenses, the compensation program must be paid back for that portion of the expenses for which the program has paid. Generally, if the victim's losses are greater than the amount paid for by the compensation program, the program will expect repayment only after those other losses are fully reimbursed. In other words, if the victim's total losses are $100,000, and the compensation program awards $10,000, the amounts the victim receives from other sources can go to pay for the remaining $90,000 in losses before the compensation program needs to be repaid.

23 See e.g., *ourworld.compuserve.com/homepages/derene/cvc.htm*

24 See e.g., *www.nccrimecontrol.org/VJS/; www.treasury.state.tn.us/injury.htm; www.ink.org/public/Kdhr/community/shawnee/agentfile/96030.html*

CHAPTER 15

Restitution

Restitution holds offenders partially or fully accountable for the financial losses suffered by the victims of their crimes. Restitution is typically ordered in both juvenile and criminal courts to compensate victims for out-of-pocket expenses that are the direct result of a crime. Most often, it is ordered in cases of property crime such as a home burglary involving stolen or damaged property or the theft of goods from a retail store. It may also be applied to reimburse victims of violent crime for current and future expenses related to their physical and mental health recovery and to make up for loss of support for survivors of homicide victims. Other types of cases in which restitution is commonly ordered are theft of services (e.g. cab or restaurant bills), fraud, forgery, and violation of vehicle and traffic laws. Restitution is not a punishment or an alternative to fines, sanctions, or interventions with the offender. It is a debt owed to the victim. Recently, judges have also begun to order "community restitution," in which convicted or adjudicated offenders "pay back" the community through service.

The concept of personal accountability for the consequences of one's conduct, and the allied notion that the person who causes the damage should bear the cost, are at the heart of civil law. It should be no less in criminal law.

The *Final Report* of the 1982 President's Task Force on Victims of Crime

The concept that offenders should provide restitution to the victims of their criminal or delinquent acts can be traced back thousands of years to the earliest forms of laws governing society.[1] In the Bible, recompense to the victim included not only reimbursing or replacing the victim for what was lost, but additional measures as a guilt offering.[2] Over time, government took responsibility for prosecuting crimes, and crimes were viewed as committed against the state, not against the victim.[3] As a result, for the most part, restitution was forgotten.[4]

Modern-day restitution emerged in the 1930s with the establishment of penal laws in some states permitting restitution as part of suspended sentences and probation.[5] In the 1960s and 1970s, a number of restitution initiatives emerged. Federal funding became available in the mid-1970s for the development of restitution programs across the country. Recommendations for the consideration of restitution were made in policy statements of such groups as the National Commission on Criminal Justice Standards and Goals, the Council of Judges of the National Council on Crime and Delinquency, the American Bar Association, and the American Law Institute. It was not until the 1980s, however, that restitution found new prominence as a critical element of the victims' rights movement.

Restitution as a significant remedy for crime victims was first addressed on the federal level with the enactment of the Victim and Witness Protection Act (VWPA) of 1982, which required federal judges to order full restitution in criminal cases or state their reasons for not doing so on the record.[6] The same year, the *Final Report* of the President's Task Force on Victims of Crime reinforced the language of the VWPA by recommending that "judges should order restitution to the victim in all cases in which the victim has suffered financial loss, unless they state compelling reasons for a contrary ruling on the record."[7]

Restitution is needed, the President's Task Force argued, because:

> It is simply unfair that victims should have to liquidate their assets, mortgage their homes, or sacrifice their health or education or that of their children while the offender escapes responsibility for the financial hardship he has imposed . . . if one of the two must go into debt, the offender should do so.[8]

As a result of these developments, national research efforts soon followed. Two early studies published in the 1980s, *Crime Victim Restitution: An Analysis of Approaches*, a comprehensive review of restitution programs published by the National Institute of Justice in 1986,[9] and the American Bar Association's *Guidelines Governing Restitution to Victims of Criminal Conduct* in 1988,[10] highlighted model restitution approaches. Both publications cited a need for increased accountability on the part of the justice system *and* the offender to make consistent payment of restitution a reality.

Over a decade later, the importance of restitution was emphasized on the federal level with the enactment in 1994 of the Violent Crime Control and Law Enforcement Act, which made restitution mandatory in cases of sexual assault or domestic violence. In 1996, restitution was made mandatory on the federal level in all violent crime cases and in certain other cases with the passage of the Mandatory Victim Restitution Act.[11] Full implementation of these provisions will bring new importance to restitution in federal criminal proceedings. Other significant changes may be on the horizon. A victims' rights constitutional amendment proposed in Congress in 1997 calls for an order of full restitution from the convicted offender.[12]

In the decade that followed the 1982 passage of the Victim and Witness Protection Act, every state passed statutes addressing restitution, most following the lead of the federal model. However, states continue to amend their statutes, creating a patchwork of financial reparations for victims across the country. As of 1995, 29 states had followed federal law in mandating restitution in all cases, unless the presiding judge offers compelling reasons not to do so.[13] Some states, however, mandate restitution only in cases involving violent crimes, while others mandate restitution only in cases involving property crimes.

Moreover, in some states, not only the victim but family members, victims' estates, private entities, victim service agencies, compensation programs, and private organizations that provide assistance to victims may seek restitution. A number of states require that offenders be on probation or parole before victims may collect restitution, and many do not require restitution from juvenile offenders.[14]

Despite the passage of federal and state legislation, restitution remains one of the most underenforced victim right within the criminal and juvenile justice systems. Evidence of this is apparent both in decisions to order restitution and in efforts to monitor, collect, and disperse restitution payment to victims. In a 1992 report on recidivism of felons on probation, the Bureau of Justice Statistics reported the results of a two-phase survey of selected counties.[15] Of the 32 counties surveyed, only half required restitution in at least one-third of all felony probation cases.[16] A study of a followup sample revealed that the average restitution order imposed was $3,368 per probationer.[17] For felony probationers who had completed their sentences, only 54 percent of the amount of restitution ordered was paid.[18]

I think if the criminals who do these things are caught they should have to pay for the damage they do, even if it takes them years. My family and I will be trying to recover from this for the rest of our lives.

A victim
The 1982 President's Task
Force Final Report

National research studies indicate that restitution is one of the most significant factors affecting the satisfaction of victims with the criminal justice process. The results of a 1989 study funded by the State Justice Institute and conducted by the American Bar Association (ABA) found that victims who were not satisfied with their involvement in the criminal justice system cited their lack of input into the decision about how much restitution to impose and the lack of information provided to them about the criminal justice process.[19] The ABA study found that victims expressed the most satisfaction with the process when they felt there was communication between them and a member of the criminal justice system who served as their contact, most typically a member of the victim-witness office. Earlier in 1980, Hudson and Galway found that a majority of the victims they surveyed, 61 percent, viewed monetary restitution as the fairest form of punishment.[20] However, more than half of the survey, 51 percent, indicated dissatisfaction with restitution, mostly because they felt the amount imposed was insufficient.[21]

In 1997, the Promising Practices and Strategies for Victim Services in Corrections project, sponsored by the National Victim Center with support from the Office for Victims of Crime, identified 10 obstacles that directly influence a jurisdiction's ability to manage a successful restitution program. These obstacles include the belief among some justice professionals that all offenders are indigent and cannot afford to pay restitution; the fact that restitution orders often are not first in the priority of court-ordered payments and follow behind court costs, fines, costs of salaries for justice officials, costs of incarceration, and other financial obligations; the lack of interagency agreements stipulating who is responsible for monitoring, enforcing, collecting and disbursing restitution; and cynicism of some crime victims and service providers about efforts to collect restitution, which contributes to low employee morale among those responsible for monitoring restitution programs and payments.[22] While all of these barriers can be overcome, each must be closely examined and addressed when agencies seek measures to improve their restitution collection programs.

Models for Implementing Restitution Statutes

Restitution can be a highly complex process, involving numerous professionals and a diverse array of tasks. Moreover, there are inherent problems in requiring financial reparation from offenders who appear to be indigent at the time of sentencing. Many jurisdictions across the country are experimenting with and institutionalizing procedures to enhance and streamline restitution collection.

- In New York City, the Criminal Court is establishing a "court-based infrastructure" to ensure strict accountability for all conditions, including restitution, that are imposed by the court. The Court is developing an innovative electronic information and communications system to link the various agencies, including those responsible for restitution, batterers' intervention, and substance abuse treatment.

- In New Jersey, a pilot program has been initiated to improve the rate of offender payment of court-ordered fines, restitution, and community service. By using a consistent sanctioning policy toward sentence violators and a centralized bench warrant process before one judicial officer in the Superior Court, the project has produced immediate significant results. The success of the program encouraged 10 other New Jersey jurisdictions to start similar pilot programs.

- The Earn-It Program, first created in Quincy, Massachusetts, places offenders who are ordered to pay restitution with local businesses for employment. The offenders are paid minimum wage and keep one-third of their earnings. The remaining two-thirds is paid to victims.[23] For juvenile offenders, the program requires community service in place of monetary restitution. The program has been replicated in many jurisdictions around the country.

- In Westchester County, New York, the probation department established an Economics Sanctions Unit in 1991 with responsibility for collecting restitution. Payments from probation are mailed to the Unit and restitution accounts are monitored by the accounting staff. Probation officers receive special training on the collection of restitution, and the Unit works with officers when offenders have problems making payment. In addition, the probation departments of both Westchester County and Alexandria, Virginia, evaluate probation officers' proficiency in managing restitution cases as a component of their job performance evaluation.[24]

- In Alexandria, Virginia, the Clerk's office generates restitution data and circulates a monthly report to all key players in the criminal justice system that helps them manage restitution functions more effectively. The report lists each restitution case, with figures for amounts received during the current month, total paid, and total owed. Any changes in the status of a restitution case are circulated to all agency heads.

- In Phoenix, Arizona, the Maricopa County Probation Department requires probationers enrolled in the intensive supervision program and the work furlough program who owe restitution to endorse their paycheck and sign them over to the probation department. Another check is then issued to the offender, minus the restitution payment. Probationers enrolled in the day reporting program are also subject to this requirement.

- In Summit County, Colorado, offenders who owe more than $2,000 in restitution are required, as a condition of probation, to submit their income tax returns to their probation officers. If the offender is entitled to a tax refund, the probation officer can require the offender to pay that amount toward their restitution obligation.

- On the federal level, the Bureau of Prisons has developed an Inmate Responsibility Program that requires inmates to make contributions from their inmate wages toward their financial obligations, including restitution.

The coordinated interagency approach to restitution management is a common sense approach to solving some of the problems that have plagued restitution programs for decades. This approach promotes the full use of restitution within the traditional criminal justice system by implementing essential goals of victim involvement, effective communication, clear definition and streamlining of tasks and roles, routine information flow, and accountability by all participants.

Jane N. Burnley &
Morna A. Murray
Restitution Reform:
The Coordinated
Interagency Approach,
1997

Coordinated Interagency Restitution Collection

A coordinated interagency approach to restitution collection has been implemented by the City of Alexandria, Virginia, as well as other jurisdictions across the country. These programs were studied by the Victim Assistance Legal Organization (VALOR) in 1995-1996 for a project on restitution reform.[25] Supported with funding from the Office for Victims of Crime, VALOR's report outlines five essential goals for managing restitution using a coordinated interagency approach:

- *Effective Communication and Coordination Among Criminal Justice Agencies and Professionals.* Effective communication and coordination among criminal justice and juvenile agencies and personnel are crucial to successful restitution management. A lack of communication affects every aspect of the process and severely hampers any efforts to improve restitution management.

- *Clear Definition and Delineation of Restitution Roles.* Because restitution involves a multitude of tasks, it is essential that agency roles be clearly defined and acknowledged. Lack of such clarity can lead to duplication of services or failure to provide certain services at all. Neither the victim nor justice is served when the system fails to define and assign the roles involved in restitution in a manner that is both efficient and effective.

- *Efficient and Streamlined Coordination of Restitution Tasks.* Restitution tasks must be viewed with a keen eye toward eliminating unnecessary steps and duplication of efforts. Tasks should be assigned to the agency most capable of performing it efficiently. At times, this may require rethinking procedures or reallocating resources.

- *Routine Flow of Information and Data.* Establishing an efficient, routine flow is important for two types of restitution information: substantive data and procedural data. It is extremely important for each agency at each stage of the criminal and juvenile justice system to be aware of any developments, changes, or problems that have occurred in other agency restitution responsibilities.

- *Participation and Accountability by All Parties to the Process.* Each criminal and juvenile justice system agency and professional must take responsibility for their portion of the restitution process. To do this, agencies should recognize their interdependence and use a coordinated, interagency approach.

This commonsense approach to restitution is promising for solving problems that have plagued effective administration of restitution programs for decades. Underlying its success is the requirement that restitution receive priority at every level of the criminal and juvenile justice systems.

Restitution and Automation

One of the most significant barriers to collecting restitution is a lack of automation. Often, multiple agencies, in addition to the victim and offender, are involved in the restitution process. When data regarding orders, payment or nonpayment, and related information are not readily available and shared, restitution orders fall through the cracks of the justice system. To address this problem, several jurisdictions have implemented innovative, cost-effective automated systems.

- The Court-Ordered Payment System (COPS) is an automated collection system located on the mainframe computer of the Florida Department of Corrections and linked to the offender's criminal history and supervision/inmate records. The program requires offenders to make payments to the state, which are then converted to government checks and disbursed to victims and other payees.

COPS links all 155 probation offices, 51 major institutions, 32 community correctional centers, and 43 road prisons, work camps, and forestry camps. A 4 percent surcharge on all court-ordered obligations is used by the department to defray the costs of processing payments from offenders.

- The Washington Department of Corrections operates a highly successful automated billing system that sends monthly "billings" to offenders who have outstanding restitution orders, allowing them to budget victim restitution as they would any other financial obligation. The system accepts credit cards for payment.

Innovative Approaches to Collecting Restitution

Across the country, some jurisdictions are using innovative strategies to collect restitution when offenders fail to pay on schedule. These efforts include using civil remedies, making offenders forfeit bond money for restitution obligations, collecting restitution while offenders are institutionalized as well as after they are placed on parole, providing incentives for incarcerated offenders to pay restitution, accepting credit card payments, garnishing wages, converting restitution orders to community service, extending community supervision until offenders fulfill their restitution obligations, and hiring private collection agencies to seek payment. These innovative methods are discussed below in further detail.

Civil Remedies

According to the National Victim Center, 41 states have laws that provide civil remedies for victims whose offenders' sentences include restitution orders. In most of these states, once an offender has defaulted on payment, a civil judgment can be enforced by placing a lien on real property, garnishing wages, attaching assets or wages, or freezing bank accounts. The attachment of deposited funds ("freezing") is usually time-limited from the initial restitution order (such as 24 months), unless it is extended by the court or paroling authority.

Laws in several states provide for specific measures to enforce restitution orders as civil judgments. Delaware allows up to one-third of an offender's total earnings to be assigned to victim restitution. Minnesota and Washington provide for the freezing of bank accounts, and courts in Montana and Oklahoma may order the forfeiture, seizure, or sale of offenders' assets.

Forfeiture of Bond Money

In Westchester County, New York, when a violation of probation is filed as a result of failure to pay restitution, the probation officer can request bail. The officer then suggests that the court set bail in the amount of the owed restitution, if the amount is not unreasonable. In the accompanying report to the court, the court is advised that if the violation is sustained and the probationer is willing to assign the bail money as payment of restitution, the probation department would recommend that probation be continued or, in some cases, terminated. The report recommends alternative sentences for probationers who will not assign bail money. These sanctions modify the order to include a graduated sanction such as "shock time," community service, or electronic monitoring. In some instances, a recommendation of revocation and a sentence of incarceration is made.

Restitution Collection in Institutions

Many forward-looking correctional agencies encourage inmates' participation in fulfilling their restitution obligations *and* increase collections by offering incentives. Correctional agencies use a variety of measures to do this, including increasing inmates' privileges for visitation and services at the prison commissary, giving them priority enrollment in popular education programs, and removing privileges for failure or refusal to participate in the department's victim restitution program. Restitution program staff and court officials must be educated on the availability of prison restitution procedures.

The California Department of Corrections (CDC) has implemented an Inmate Restitution Fine Collections System supported by state law that enables the department to deduct up to 50 percent of inmate wages and other trust account deposits to pay court-ordered restitution. This amount is forwarded to the State Board of Control Restitution Fund, which provides reimbursement to qualified victims for expenses such as medical costs and counseling incurred as a result of the crimes committed against them. Since its inception in November 1992, this system has resulted in the collection of over $9 million from inmate wages and trust account deposits. CDC's Victim Services Program staff also coordinates voluntary restitution payments from inmates and parolees as well as money from annual inmate fundraising events.

Community Restitution

When offenders are truly indigent and unable to pay even a portion of their restitution order, many correctional agencies give offenders the option of performing community restitution. It should only be imposed, however, after victims have given their consent. Some victims may want to have the restitution order remain in effect for the offender's lifetime rather than see their debt discharged in another fashion. Other victims may feel a measure of compensation by helping to select the type and location of the service that offenders will perform. Offenders generally perform services directly for the victim, for a favorite charity of the victim, or a public work project of the agency that the victim chooses. Victim restitution does not preclude an order of community restitution as well. The offender not only has caused monetary damage to the victim but also has damaged the safety and security of the community as a whole.

Using Private Collection Agencies

Some states authorize justice agencies to use the services of private collection agencies to secure restitution payments. The use of private collection agencies, which have experience, automated systems, and employees trained to track down delinquent debtors, can significantly increase the collection of restitution. Although a percentage of the payment collected is kept by the collection agency, reducing the amount of restitution the victim receives, many justice agencies and victims feel that 90 percent of a restitution order is better than nothing at all. When contracting for the services of private collection agencies, justice agencies should establish clear guidelines for acceptable collection tactics and secure the permission of the victim.

Victim Services, Inc., a nonprofit organization, manages the restitution collection program in New York City for all nonprobation cases. In fiscal year 1997, 2,732 cases were referred to the organization, which collected a total of $1,830,000. Overall, the payment rate in those cases was 79 percent.

Enforcing Restitution Statutes

Several states and local jurisdictions have undertaken innovative measures to enforce restitution orders. In some states, offenders who fail to pay restitution risk being held in contempt of court, imprisoned, or having their parole or probation extended or revoked.[26] Such sanctions can be lifted in extreme cases in which an offender can demonstrate hardships that prevent them from making payment. However, in such cases, restitution payment schedules should be adjusted, not abandoned.

It is important that victims understand their obligation to report nonpayment of court- and parole board-ordered restitution so that correctional agencies can assess the reasons for nonpayment and consider sanctions. Victims should be provided the opportunity to have input into the types of sanctions that might be imposed.

Recommendations from the Field for Restitution

RESTITUTION RECOMMENDATION FROM THE FIELD #1

Restitution orders should be mandatory and consistent nationwide. Full restitution should include all immediate and expected monetary costs of the crime to victims, including property loss, health and mental health costs, and, when appropriate, compensation for pain and suffering. When a victim cannot be identified to receive restitution, judges should consider ordering payment to national, state, or local victim assistance or compensation programs. Judges should review restitution orders periodically to assess whether the victim has incurred additional costs as a result of the crime and whether the offender is making timely payments. Restitution payment plans should include provisions for immediate payment of full restitution should the offender obtain additional financial assets.

Judges should order full restitution in every case. Realistic payment schedules should be established, and victims should be advised fully about realistic expectations for the likelihood and speed of full collection. Restitution orders should reflect the full extent of damages to the victim so that victims can seek civil judgments in that amount.

RESTITUTION RECOMMENDATION FROM THE FIELD #2

A coordinated, interagency response throughout the justice system is essential for the effective collection of restitution.

It is critical that all justice agencies responsible for restitution, including courts, probation, prosecution, and corrections, implement coordinated, interagency models for the collection of restitution to enable professionals at each stage of the process to carry out their responsibilities more effectively. Much of the disparity between the perceived and actual effectiveness of restitution practices may be traced to procedures that have become cumbersome because they involve numerous agencies and personnel. A coordinated interagency approach to restitution collection that manages this complex process with clearly defined roles and streamlined tasks will improve communication among agencies, increase consultation and communication with victims, and enforce judicial restitution orders with appropriate followthrough.

RESTITUTION RECOMMENDATION FROM THE FIELD #3

Restitution must be a priority for all criminal justice agencies if it is to be implemented successfully.

Because multiple entities are involved throughout the restitution process, successful collection depends on their ability to cooperate. Studies show that compliance increases when restitution is made a priority in correctional agencies, but lags when restitution is not a top agency concern. Programs that aggressively target restitution generate more successful performances and lower recidivism rates.

RESTITUTION RECOMMENDATION FROM THE FIELD #4

Victims should be informed as early as possible in the justice process of their right to receive restitution from the offender. They should be notified of the disposition of the case, advised of realistic expectations for payment, and provided with information about their rights when offenders fail to pay.

Because many victims are not informed of their right to obtain restitution for their losses, they do not adequately document their financial losses. Without this evidence, victims have a difficult time proving damages at the time of sentencing. Victims should be informed of their right to restitution as early as possible, and they should receive information at that time on what type of documentation is necessary for the court and what methods they can use to obtain that documentation. In addition, victims should be informed of whom to call if they have any problems or questions. The appropriate agencies must initiate proceedings in those jurisdictions which provide for statutory imposition of civil remedies.

RESTITUTION RECOMMENDATION FROM THE FIELD #5

At the time of sentencing, courts should have sufficient information about both the victim and the offender to determine the amount of full restitution and a payment schedule.

Judges often state that their failure to order restitution is due to a lack of information regarding the victim's loss or the offender's financial assets or future ability to pay. Presentencing reports must contain victim impact information on financial losses, including current and expected medical and counseling expenses, lost wages, and property losses. Presentencing reports should also cover offenders' ability to pay restitution, including information on wages accumulated while incarcerated pending trial or final sentencing. Moreover, victim impact statements should describe the cost of the crime to the victim, particularly in cases in which a presentence investigation report was not filed.

Justice professionals and victim service providers also have a responsibility to educate victims about how to document immediate losses such as expenses related to medical care, mental health services, funeral expenses, time off from work, and crime scene cleanup and relocation. The guidelines for documenting losses for restitution orders that were developed through the National Victim Center's Promising Practices and Strategies for Victim Services in Corrections project sponsored by the Office for Victims of Crime should be widely distributed to victims.

RESTITUTION RECOMMENDATION FROM THE FIELD #6

The use of technology can greatly enhance the tracking and payment of restitution orders. Those responsible for monitoring restitution should automate their program.

The full automation of restitution collection will assure more efficient communication among responsible agencies and improve the tracking of money collected, owed, and disbursed. Many jurisdictions are creating software packages that fully automate restitution processes, which substantially increases both restitution collection and victim satisfaction.

One reason restitution orders are not enforced is the cost involved in tracking the orders. Automation can improve efficiency and, over time, greatly reduce this cost. One software package, for example, includes programs for tracking payments, establishing disbursement priorities, prompting enforcement measures and generating enforcement reports, and writing checks to victims. To facilitate the collection of restitution, administrative fees should be included in any order that includes payment in installments. These fees should be used to develop computerized tracking systems or to prioritize collection.

RESTITUTION RECOMMENDATION FROM THE FIELD #7

Offenders should be held accountable for restitution payments; state legislation should make restitution payments a priority over other payments due from the offender, including fines, fees, and restitution to entities other than the crime victim; and restitution payments should be collected before fines or penalties.

Correctional agencies should put procedures in place for dealing with offenders who fail to pay restitution as ordered. When offenders fail to make restitution payments, notice should be sent to the appropriate judicial or probation officers to reevaluate the offenders' ability to pay and their release status. Measures that can be taken in response to offenders who default on payments range from informal communication by the probation officer to a court-ordered revocation hearing. When appropriate, the probation officer should consider steps to modify the payment schedule. If an action is taken that will affect the payment of restitution, the victim should be informed. When an offender's probationary period is coming to a close and an outstanding balance of restitution remains, the probation department or the court should extend supervision, step up collection, or assist victims with procedures to pursue civil judgments.

Offenders are generally unable to pay all restitution, fines, court fees and other costs in one lump sum. It is logical and right that the party least able afford to absorb the loss—the victim—be paid first. Several states and the federal government have already legislated such a priority.[27]

RESTITUTION RECOMMENDATION FROM THE FIELD #8

Corrections agencies, including prisons, jails, probation departments, and paroling authorities, should designate one person to be responsible for victim inquiries and contact regarding restitution.

Victims are often confused about which official to call with questions and concerns about restitution because so many agencies are involved in the process. Designating one person or office for victims to contact for reliable and accurate information will help facilitate an effective restitution process.

RESTITUTION RECOMMENDATION FROM THE FIELD #9

A probation or parole officer's proficiency in managing restitution cases should be a component of evaluating their job performance.

The ability to manage restitution cases should be considered an essential part of a probation and parole officers' job. Evaluations of job performance should include this important responsibility.

RESTITUTION RECOMMENDATION FROM THE FIELD #10

Failure to comply with a restitution order should result in an extended sentence of the offender's community supervision.

In the state of Washington, offenders who fail to comply with their restitution orders can have their sentence of community supervision extended for up to 10 years by the department of corrections. Often, an offender's desire to be released from community supervision provides impetus for offenders to fulfill their restitution requirements in a more timely manner.

RESTITUTION RECOMMENDATION FROM THE FIELD #11

Civil remedies should be applied on a routine and consistent basis to assist crime victims in collecting restitution.

More than 40 states have enacted laws to provide civil remedies for the collection of court-ordered restitution. Such remedies include converting the restitution order into an automatic civil lien, garnishing wages, suspending driver's licenses, placing automatic liens on real property, and intercepting state income tax refunds. Agencies responsible for the collection of restitution should inform victims about these civil options. For a more detailed discussion of civil remedies, see the next chapter of this section.

RESTITUTION RECOMMENDATION FROM THE FIELD #12

Victims should have the right to petition to amend the payment schedule for restitution, the amount of restitution ordered, and any failure to order restitution.

Victims of crime frequently incur losses that are not known at the time of sentencing. Expenses for rehabilitation and long-term counseling as well as additional lost wages are often incurred following the sentence. Victims should have the right to petition the court to modify the restitution order. Several states have adopted this approach as a matter of law.[28]

RESTITUTION RECOMMENDATION FROM THE FIELD #13

Before the court modifies a payment plan or makes other changes to a restitution order, it should notify the victim and give them an opportunity to be heard on the matter.

Of all the parties concerned, restitution orders affect the victim most. Any change in a restitution order must involve consideration of the victim's interests by soliciting input from the victim. Several states already provide victims this opportunity to be heard, and it should be standard practice in all states.[29] In Arizona, the victim is also entitled to question the defendant under oath about his employment, assets, and financial condition.[30]

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

Endnotes

1 Most people are familiar with the term "an eye for an eye," which dates back to the Code of Hammurabi in the 18th century B.C.. R. F. Harper, *Code of Hammurabi* (trans. 1904) (2nd ed.). The Hebrew Law of Moses (about 1688 B.C.) specifically provided for the payment of restitution.

2 Exod. 22:1, 7, 9 and Lev. 6:1-5.

3 The idea of restitution was prevalent throughout primitive societies. In Saxon England, a legal system developed which delineated between the restitution owed to the victim's family (called the Bot), and that owed to the king for violating the king's peace (called the Wit). Frank, L.F., *The Collection of Restitution: An Often Overlooked Service to Crime Victims,* ST. JOHN'S JOURNAL OF LEGAL COMMENTARY 8, 107-34 (1992), referencing J. Stark, & H. Goldstein, *The Rights of Crime Victims* (1985). Eventually, Anglo-Saxon law established the concept of the "botless" crime, and crimes were punished solely on the basis of being violations of the king's peace. The victim then took on a secondary role and was left without remedies within the criminal system. The only recourse was to pursue damages in a separate civil action.

4 *Id.*, Frank.

5 *Id.* at 111.

6 *Victim and Witness Protection Act of 1982,* Pub. L. No. 97-291, Sec.4, 96 Stat. 1249 (codified at 18 U.S.C. Secs. 1512-1515; Fed. R. Crim. P. 32).

7 President's Task Force Report on Victims of Crime, *Final Report,* Washington, D.C.:U.S. Government Printing Office, December 1982:72.

8 *Id.* at 79.

9 McGillis, D., *Crime Victim Restitution: An Analysis of Approaches,* Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 1986, NCJ 103680.

10 American Bar Association, *Guidelines Governing Restitution to Victims of Criminal Conduct,* Washington, D.C.: American Bar Association, 1988.

11 The Mandatory Victim Restitution Act, Title II of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132 (1996), 18 U.S.C. § 3663A (1996).

12 S.J. Res. 52, 104th Cong., 2d Sess., 149 Cong. Rec. S3792-06 (1996); H.J. Res. 173, 104th Cong. 2d Sess., 142 Cong. Rec. H3657-08 (1996); H.J. Res. 174, 104th Cong., 2d Sess., 142 Cong. Rec. H3657-08 (1996). S.J. Res. 6, 105th Cong., 1st Sess. (1997).

13 *Id.*

14 Because there are numerous ways to structure and define mandatory measures within legislation, it is difficult to precisely quantify how many states actually require restitution. *See generally* National Victim Center, *1996 Victims' Rights Sourcebook: A Compilation and Comparison of Victims Rights Laws,* National Victim Center, Arlington, VA., 1997, §11.

15 Langan, P. A., and M. A. Cunniff, *Recidivism of Felons on Probation, 1986-89,* Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, February 1992.

16 *Id.*

17 Cohen, R., *Probation and Parole Violation in State Prison, 1991* (August 1995).

18 *Id.*

19 B. Smith et al., *Improving Enforcement of Court-ordered Restitution,* funded by the State Justice Institute, 1989.

20 *Id.*

21 National Victim Assistance Academy, *National Victim Assistance Academy Text,* Alexandria, VA, 1997:21-10-7.

22 Seymour, A., "Victim Restitution," *Promising Practices and Strategies for Victim Services in Corrections*, Office for Victims of Crime and National Victim Center, Arlington, VA, 1997:VI-4/5.

23 McGillis, D., *Crime Victim Restitution: An Analysis of Approaches*, 9.

24 American Probation and Parole Association, *Promising Victim-Related Probation and Parole Practices*, American Probation and Parole Association, 1997:44.

25 Burnley, J. and Murray, M., *Restitution Reform: The Coordinated Interagency Approach*, Washington, D.C.: Victims' Assistance Legal Organization and Office for Victims of Crime, U.S. Department of Justice, 1997.

26 National Victim Center, *1996 Victims' Rights Sourcebook*, Sec. 11.

27 See e.g., IOWA CODE § 910.2, WIS. STAT. § 973.20, and 18 U.S.C. 3612 (payment of the penalty assessment has the first priority, but payment of restitution has priority over all other fines, penalties, costs, and other payments required under the sentence).

28 Alabama allows any of the parties with an interest in the income withholding order to petition to alter, modify or rescind the order, including the victim, the defendant, or the district attorney for good cause (ALA. CODE §15-18-151). In Iowa, the court retains the power to issue further supplemental orders as additional victim losses are incurred (IOWA CODE § 910.3). Arizona provides that the defendant or those entitled to restitution may petition the court for an order modifying the payment schedule (ARIZ. REV. STAT. §13-804).

29 As examples, see ARIZ. REV. STAT. § 13-804; MONT. CODE ANN. § 46-18-246.

30 ARIZ. REV. STAT. § 13-810.

CHAPTER 16

Civil Remedies

Victims of crime often suffer great physical, psychological and financial losses, and they are increasingly looking to the civil justice system for reparations. The tangible costs of crime to victims, such as medical expenses, mental health counseling, and lost productivity, are estimated at $105 billion annually. The intangible costs—the price of the pain, suffering, and reduced quality of life victims must endure—are even greater: $345 billion annually.[1] Although some victims are compensated through state victim compensation or through restitution ordered as part of a sentence, these sources frequently fall short of covering their total losses. In particular, restitution and state-funded compensation rarely, if ever, compensate victims for the diminished quality of life resulting from continuing pain and suffering. A judgment in a civil suit can provide such compensation as well as secure important preventative measures that would not result from a criminal action alone.

The 1982 President's Task Force on Victims of Crime did not address the use of civil litigation to secure relief for crime victims. The Task Force focused entirely on recommendations for the criminal justice system. It is primarily within the last decade that civil litigation has emerged as a meaningful option for crime victims and as a specialized area of attorney expertise. This progress has been due in large part to the legal research and advocacy efforts of the late Frank Carrington, a member of the Task Force. Throughout the 1980s, Mr. Carrington provided legal advice and advocacy to hundreds of crime victims. With support from the Office for Victims of Crime, he teamed up with the National Victim Center in 1990 to create the nation's first training series on civil legal remedies for crime victims. Over the next several years, more than 2,000 victims, service providers, and attorneys were introduced to victims' rights through this nationwide training series.

High-profile cases in recent years have highlighted the financial compensation and other benefits that are available to crime victims who pursue civil litigation. In one case, $33.5 million was awarded to the families of two murder victims,[3] and in another, $5.2 million was awarded to a woman sexually assaulted at a Las Vegas convention.[4] Other successful civil lawsuits were brought by the parents of a slain foreign exchange student,[5] and by two adult sisters who were sexually abused as children.[6] These cases have dramatically raised the consciousness of not only the public and the legal community about civil legal remedies for victims, but the victim service field as well.

> *[Victims' rights] litigation, if successful, vindicates the rights of the immediate victim. . . . Perhaps more importantly, if a body of victims' rights law develops, it will have the preventive aspect of putting would-be criminals and third parties who are responsible for victimization on notice that the law works to aid victims, in addition to punishing the wrong-doer.*[2]
>
> Frank Carrington,
> Founder, Victims' Assistance
> Legal Organization

In addition to compensating victims financially for their losses, civil remedies empower victims to exercise their rights. In a civil lawsuit, the victim rather than the state is in control of essential decisionmaking. Victims decide whether or not to pursue a civil suit, and they choose their own attorneys. The burden of proof is lower in civil cases than in criminal cases, requiring a less rigorous measure of the evidence to establish liability. A defendant can be required to testify at trial, if subpoenaed. Furthermore, victims have a voice in the outcome of a civil action by deciding whether or not to accept a settlement offer.

Civil litigation can have preventative effects as well. Civil suits may be brought against other parties involved in victimization. For example, a hotel or office building may be sued by a rape victim for security violations that allowed the attack to occur. This kind of lawsuit may change the way the defendant and others conduct business, reducing the possibility of further crimes.

However, the ability of victims to seek civil remedies has been hampered by a lack of information about victims' options for pursuing a civil lawsuit, including how to contact an attorney to take on a case; by legislation limiting the period of time after victimization within which a case may be brought; and by the absence of legislation permitting a particular kind of case to be filed. Initiatives to overcome these barriers are discussed below.

> *By pursuing civil litigation claims, crime victims have often found the legal rights, the restitution and the sense of justice that eluded them in the criminal justice system.*
>
> Jay Howell,
> Attorney and Victim Advocate,
> Jacksonville, Florida

Providing Critical Information to Victims

Historically, information about pursuing civil remedies has not been readily available to crime victims. Many attorneys did not understand the possibilities for recovery, and victim service providers and victims themselves were unaware of the relief available through a civil suit. Other victims have not known how to find an attorney to take on their case. In response, attorney networks have been established specifically to refer victims of crime to lawyers with experience in their particular kind of case.

- The Coalition of Victim Attorneys and Consultants (COVAC), a nationwide referral service for victims seeking to pursue civil lawsuits, has been established through the National Victim Center (NVC) in Arlington, Virginia. COVAC consists of attorneys with experience representing crime victims in civil matters and professionals from other fields who serve as experts or consultants in civil cases involving crime victims. The group is the membership arm of NVC's Carrington Victims' Litigation Project (CVLP), which helps attorneys provide sensitive representation. CVLP has compiled a Civil Justice Case Law Data Base, which contains over 9,000 case summaries of appellate decisions relating to civil litigation by crime victims.

- The organization One Voice in Washington, D.C. has compiled a database of attorneys who handle cases of child sexual abuse brought by adult survivors as well as custody cases in which the child has disclosed sexual abuse and the alleged abuser is seeking full custody or unsupervised visitation rights.

In order for any attorney network to be successful, however, crime victims must be informed of their right to bring suit and that knowledgeable attorneys are ready to help them. This obligation falls principally with those individuals who come into contact with victims most frequently: law enforcement officers, prosecutors, and victim service professionals. In the area of domestic violence, a number of providers have established connections with attorneys who are willing to handle the civil litigation needs of domestic violence victims.

Legislative Changes

Congress and state legislatures have enacted numerous laws to assist crime victims seeking civil remedies. Recent legislation in states across the country has focused on the need in child sexual abuse cases to extend the statute of limitations—the time within which people must file suit. Many states now extend the statute of limitations for bringing civil actions against abusers until many years after the child has reached the age of majority. Connecticut, for example, established one of the lengthier statutes at 17 years past the age of majority, or age 35. Civil actions in these cases are allowed regardless of the victim's reason for not bringing the action earlier. Other laws enable adults who were sexually abused as children to collect monetary damages from the federal pensions of their abusers.[7]

Recent legislation has also made civil remedies available to victims of gender-based violence, stalking, and hate-motivated violence. The Violence Against Women Act (VAWA) of 1994 introduced a new civil remedy for victims of sexual assault, domestic violence, and child abuse, stating that "[a]ll persons within the United States shall have the right to be free from crimes of violence motivated by gender."[8] Under this provision of the Act, anyone who commits a crime of violence motivated by the victim's gender is liable to the victim for compensatory and punitive damages. VAWA allows restitution ordered for expenses such as medical fees, physical and occupational therapy, lost income, and attorney's fees in criminal gender-motivated cases to be enforced like a civil damage award.

Moreover, all 50 states and the District of Columbia have enacted anti-stalking laws, most of which impose criminal sanctions against stalkers. A few state legislatures have also enacted laws that create a civil law tort of stalking allowing victims of stalking to sue perpetrators for monetary damages.[9] Finally, many laws have been passed that provide legal recourse for hate-motivated violence based on a victim's race, color, national origin, religion, gender, sexual orientation, disability, or age.[10]

Recommendations from the Field for Civil Remedies

CIVIL REMEDIES RECOMMENDATION FROM THE FIELD #1

Crime victims should be fully informed of their legal rights to pursue civil remedies.

It is always the victim's decision whether or not to pursue a civil action against a perpetrator. It is also solely the victim's decision to select a civil attorney. Victim service providers, however, can serve as a vital source of information to help victims make decisions that are well informed. When victims express an interest in filing a civil lawsuit, victim service providers should be prepared to discuss factors to consider when selecting an attorney and other referral-related information. Prosecutors and law enforcement officials should be able to provide crime victims with basic information about civil litigation options and materials on appropriate attorney referral networks.

According to a recent USA Today opinion poll, the American public is more knowledgeable about victims' civil legal rights resulting from both the increased attention at state and national levels, and more media attention afforded to victims' civil litigation.

Crime Victims'
Litigation Quarterly
National Victim Center,
May 1997

CIVIL REMEDIES RECOMMENDATION FROM THE FIELD #2

State and local networks of civil attorneys who have experience representing crime victims should be expanded. Education and training on civil remedies for victims should be offered to attorneys to increase the pool of qualified lawyers in these networks and to maintain the level of expertise among member attorneys. Non-attorney experts and professionals should participate in these trainings and networks to educate attorneys on victim issues and make their representation more effective.

Victims need referrals to experienced civil attorneys. Membership organizations for attorneys such as the American Bar Association, the American Trial Lawyers Association, local bar associations, and state lawyer coalitions should encourage attorneys in the private sector who specialize in civil litigation on behalf of crime victims to establish and join attorney networks such as the Coalition of Victim Attorneys and Consultants. Bar associations should cosponsor trainings with service providers such as rape crisis clinics and domestic violence shelters to educate lawyers on the proper handling of victims' issues in civil cases.

Specialized continuing legal education classes on civil litigation for victims, as well as other products and services such as case digests and legal periodicals that deal specifically with civil litigation involving crime victims, should be developed to assist the lawyers in their work. In addition, these attorneys should receive training from victim service providers about the impact of victimization.

CIVIL REMEDIES RECOMMENDATION FROM THE FIELD #3

Increased efforts should be made to identify consultants with the expertise to testify on issues relevant to victimization in civil and criminal cases.

Expert consultants are often crucial to successful ligation and prosecution. Not only do they provide vital information as witnesses at trial, they are also invaluable in assisting with case preparation, mediation, and settlement negotiations. In addition, consultants can educate members of the legal profession on unique aspects of cases involving crime victims, including the psychological consequences of violence on victims, premises liability and security issues, repressed memory, and forensic evidence. Legal organizations and associations should encourage the development and recruitment of expert witnesses while forming better partnerships with their professional organizations (for example, the International Association of Professional Security Consultants and the International Association of Trauma Counselors).

CIVIL REMEDIES RECOMMENDATION FROM THE FIELD #4

Civil attorneys should work with victim service providers, law enforcement officials, and prosecutors in their communities to develop an easy-to-understand pamphlet about civil remedies for crime victims.

Most crime victims do not understand the criminal, let alone the civil, justice process. Before victims decide to pursue a civil lawsuit, they must know the advantages and disadvantages of bringing such a suit. At a minimum, brochures should be developed to help explain the civil justice and court system to victims, including how victims can access civil legal advocacy and assistance.

CIVIL REMEDIES RECOMMENDATION FROM THE FIELD #5

Civil attorneys should provide training to victim service providers on civil remedies for crime victims.

The Office for Victims of Crime has funded the development of a curriculum for victim service providers on civil remedies for crime victims. The training has been conducted in 15 states as either a 2-day training program or a workshop that is part of a larger statewide or regional conference. Training for victim service providers in civil litigation should be continued, using *Civil Legal Remedies for Crime Victims* as a basic text. This training should be held jointly with training for lawyers by victim service providers to cross-train these professionals.

CIVIL REMEDIES RECOMMENDATION FROM THE FIELD #6

Statutes of limitations for civil actions involving child abuse cases should be extended, as has been done in a number of states. States should also examine statutes of limitations for civil actions relating to other criminal acts to determine whether they should be extended to provide a meaningful opportunity for crime victims to obtain needed relief.

Many states have extended the statute of limitations for bringing cases involving child victims of sexual crimes.[11] Civil extensions for child sexual abuse cases are most often based upon the discovery rule that by the time the victim discovers the wrongdoing or the relationship of the conduct to the injuries, the time limitation may have expired. This "delayed discovery" is frequently due to emotional and psychological trauma and is sometimes accompanied by repression of the memory of abuse. Child victims frequently do not discover the relationship of their psychological injuries to the abuse until well into adulthood, often during the course of psychological counseling or therapy.

A second reason for extending the limitations period for victims of sexual assault is that they may fear intimidation or retaliation or face other psychological impediments to proceeding with a civil action during the normal period of limitations. This same rationale should be extended to other crimes, including sexual assault, domestic violence, and hate and bias crimes against adult victims.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

Endnotes

1 Miller, T., Cohen, A. M. and B. Wiersema, *Victim Costs and Consequences: A New Look*, Washington, DC: National Institute of Justice, U.S. Department of Justice, 1996:2.

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3 *Rufo, et al.* v. *Simpson, et al.*, SC 031947 (Cal. Super. Ct. 1997).

4 *Coughlin* v. *Hilton Hotels Corp.*, 879 F.Supp. 1047 (Nev. 1995), *aff'd* 112 F.3d 1052 (9th Cir. 1997).

5 *Hattori* v. *Peairs*, 662 So.2d 509 (La. Ct. App. 1995).

6 *Sabia* v. *State of Vermont*, 164 Vt. 293, 669 A.2d 1187 (1995).

7 See *The Child Abuse Accountability Act of 1994*, Pub. L.No. 103-358, (codified at various sections of Title 5, U.S.C.).

8 See *The Violent Crime Control and Law Enforcement Act of 1994*, Pub. L. No. 103-322, Title IV, Subtitle C, §40302, 108 Stat. 1941 (codified at 42 U.S.C. § 13981).

9 See CAL. CIVIL CODE §1708.7 and WYO. STAT. ANN. §1-1-26. California's law allows victims of stalking to sue perpetrators for punitive damages.

10 Representative statutes include: CAL. CIVIL CODE §51.7; FLA. STAT. ANN. §775.085; IOWA CODE §729A.5; MICH. COMP. LAWS §28.344; N.J. REV. STAT. 2A:53A-21 and OKLA. STAT. §21.850.

11 See e.g., CAL. CIVIL CODE §340.1; CONN. GEN. STAT. §52-557d; ME. REV. STAT. ANN. tit.14 § 752-C, and NEV. REV. STAT. §11.215.

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New Directions for Child Victims

Each year in America, millions of children directly experience or witness violence in their homes, neighborhoods, and schools. The impact of such crime and violence on our nation's youth is undeniably profound. This section addresses the unique needs of child victims and outlines the legal rights and protections that have emerged at the federal and state levels in the areas of child physical and sexual abuse, child abduction, and other types of crimes against children. It reviews the long-term impact of crime on child victims, and presents examples of programs and services that have been developed across the nation to address the health and mental health needs of child victims, and to help them through the criminal or juvenile justice process in sensitive and comprehensive ways. Such services include children's advocacy centers, court-appointed special advocates, and other multidisciplinary approaches. It also contains a number of recommendations designed to improve services for child victims such as replicating promising practices in other communities, specially training all professionals who come in contact with child victims, and enhancing data collection and research initiatives in the area of child victimization.

CHAPTER 17

Child Victims

Each year, hundreds of children write to the President, the First Lady, and the Attorney General about being abused. In graphic detail their letters chronicle the physical, sexual, and emotional abuse inflicted on our nation's children. They ask to be protected. They ask for police officers and judges to intervene. They harbor hope that somebody who is "in charge" will help. One such letter was sent to the President in 1996 by an 11-year-old victim:

> Dear Mr. President,
>
> I would appreciate if you would read this letter at your next meeting. . . . I myself have been molested by my step-grandfather for almost two years. Right now I have to talk to a detective about it, I'd rather be put in jail for twenty years. It hurts. I would like to know why I have to go through so much pain by talking about it over and over again and have to draw pictures and show places on dolls. How come I'm being put through such pain when I did not commit a crime? I just want to know why kids are being hurt over these things. I want to make a big point—Kids are being hurt.

The 1980s witnessed the emergence of many new legal rights and protections for child victims. Nationally publicized cases involving child abduction, sexual abuse, and chronic physical abuse leading to death gave the nation and its legislators a wake-up call to the plight of abused children. Much of the legislation that followed focused on protecting children from abuse and reducing the trauma of children participating in the criminal justice system.

The 1982 *Final Report* of the President's Task Force on Victims of Crime voiced a special concern for child victims of sexual abuse, calling for a response to child victimization in two general areas: (1) protecting children through legislation requiring or permitting child-serving institutions and agencies to check for criminal records of prospective candidates for employment or volunteer positions, and (2) treating child victims with sensitivity by calling on prosecutors and judges to recognize "the profound impact that sexual molestation and sexual violence has on young victims and their families and to treat it as a crime that should result in punishment, with treatment available when appropriate."[1]

Since 1982, the change in the nation's awareness of the impact of crime on children has been dramatic. Research efforts have examined various aspects of child victimization, including the long-term mental health impact on children who experience and witness violence; the motivations of perpetrators who prey on children; the family dynamics of intra-familial child abuse and neglect; and effective responses of professionals in the social service, health, mental health, and criminal justice systems. Overall, greater attention has been given to all forms of child victimization, including sexual and physical abuse, neglect, exploitation, abduction and psychological or emotional abuse.

While a decade ago "stranger abductions" were believed to be among the greatest threats to children, it is now well documented that of the thousands of children each year classified as missing or abducted, parents, not strangers, are responsible for the vast majority of child abductions.[2] Moreover, the largest category of missing children today are runaway, thrownaway, and homeless youth, a substantial number of whom have been victims of prior physical or sexual abuse in their homes. Their life on the streets continues this pattern of violence.

Over the past decade new manifestations of child victimization have emerged. Advances in technology now present serious threats and potential harm to children. Video cameras are increasingly used to produce homemade child pornography. Personal computers equipped with scanners and access to the Internet are used to instantly disseminate child pornography worldwide and to solicit children for sexual encounters.

Research is also revealing new information about the intergenerational cycle of violence. A link between early victimization and later involvement in violent crime has been identified, although additional research is needed to understand fully why some abused or neglected children become violent, while the majority do not.[3] New data is also showing that witnessing violence in the home and community adversely impacts a child's mental health and development, including an increased likelihood in some children to become directly involved in violence, whether as victims or perpetrators, as they mature.

While substantial legislative changes, research, and funding has been dedicated to child victimization, one frustrating fact has not changed since 1982—the lack of accurate data on the extent of child victimization in America. In 1997, there is still no national repository of all child victimization statistics, meaning the nation lacks precise data on the number of children who are victimized each year.[4] Without accurate data, the national debate often turns to the accuracy of the numbers rather than focusing on the problem itself.

> *I would like to tell you about people that abuse their children then as their children get older, they abuse children. Well I'm one of those children. My father started abusing me when I was six years old. Then when I was thirteen I started to abuse other children. I'm now in a treatment center for what my father did and for what I did.*
>
> A child abuse victim

In spite of the lack of exact data, recent statistics on child victimization suggests it is a crisis of national importance. Each year in America it is estimated that:

- 1 million children are substantiated victims of abuse or neglect.[5]
- 130,000 children are sexually abused.[6]
- 2,000 children die as a result of abuse or neglect.[7]
- 450,000 children are considered runaways.
- 127,100 children are considered "thrownaways."
- 354,100 children are abducted by parents.
- 3,200 to 4,600 children are abducted by strangers.[8]
- 3 million children witness violence in their homes.[9]
- Large proportions of inner-city children witness violence in their communities.[10]

Federal Legislation and National Programs

A review of the legislative initiatives and national programs of the past three decades shows that the recommendations of the President's Task Force to increase rights and protections for children have been met and exceeded.

- In 1974, the Child Abuse Prevention and Treatment Act established the National Center on Child Abuse and Neglect within the Department of Health and Human Services to assist professionals who work with children who have been physically or sexually abused or neglected. The Center supports the National Clearinghouse on Child Abuse and Neglect Information and a national data archive.

- In 1978, the American Bar Association launched the ABA Center on Children and the Law to improve children's rights, the response of court systems, and the quality of legal work in child protection cases. Among its programs, the Center operates a National Child Welfare Resource Center on Legal and Court Issues supported by the U.S. Department of Health and Human Services.

- In 1984, the Missing Children's Assistance Act established a clearinghouse and national resource center dedicated to helping exploited children—the National Center for Missing and Exploited Children. Since its creation, the Center has handled more than 1 million calls to its 24-hour hotline, distributed millions of publications, and provided advice and technical assistance to thousands of parents, prosecutors, law enforcement officers, and child services professionals.[11]

- In 1985, the National Center for Prosecution of Child Abuse was established by the National District Attorney's Association as a program of the American Prosecutors Research Institute. The Center has improved the investigation and prosecution of child abuse crimes nationwide through training and technical assistance to prosecutors and allied professionals.

- In 1986, the Children's Justice Act gave states funds for interdisciplinary training programs, interagency protocols for referrals and joint interviews, and the creation of children's advocacy centers or similar programs encouraging partnerships among agencies for joint investigations. The Act has since been amended to allow funding for the improvement of civil and criminal court responses to child abuse as well as for the establishment of interagency child fatality review teams.

- In 1990, the Victims of Child Abuse Act established rights and services for child victims of federal offenders. The Act added a new section to the Federal Rules of Criminal Procedure codifying innovative child witness reforms. They included alternatives to in-court appearances through closed-circuit television testimony or videotaped depositions; a presumption of child witness competency; privacy protections; courtroom closure provisions; authority for appointments of guardians ad litem; provisions for a supportive person to accompany the child during their court appearances; speedy trial provisions; authority for judges to permit child witness use of anatomical dolls; and consultation with multidisciplinary teams. The Act was amended in 1993 to provide funding to support local children's advocacy centers and to establish regional training centers to assist communities in establishing interagency teams to respond to child abuse cases.

- In 1993, the National Child Protection Act provided authority for conducting criminal background checks for child care providers nationwide and required states to report child abuse crime information to the FBI's criminal record system.

- In 1994, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act provided financial incentives for states to enact sex offender registration requirements. Following passage of the Act, a number of states required offenders convicted of state crimes against children to maintain a current address with state law enforcement authorities for 10 years after release from prison, parole, or supervision.

- In 1994, a provision of the Crime Control and Law Enforcement Act criminalized domestic and international travel for the purpose of engaging in sexual activity with a child.

- In 1996, the Child Pornography Prevention Act included as a form of child pornography any computer-generated, or "morphed" depiction of a child engaged in sexually explicit conduct. The new statute considers the motives of the producers and the intended audience, as well as the presumed harm to the victim, as justification for prohibiting this form of pornography.

- In 1996, Megan's Law amended the Jacob Wetterling Act to provide for the notification of a community regarding the presence of a registered sex offender. The law was passed to better protect children from known sex offenders.

State Legislation Protecting Child Victims

Numerous state laws now exist to protect children from physical and sexual abuse and to provide an array of rights and services for child victims who participate in the criminal justice process. Reforms on behalf of children have taken place at every step of the criminal justice process, from the initial reporting of abuse through the investigation, prosecution, and disposition of convicted offenders. Many of these reforms—expediting the adjudication of child abuse cases, limiting the number of investigative interviews with child victims, and providing advocacy for child victims in criminal courts—were considered radical a decade ago but are now common practice in many communities. More can be done, however, to protect the rights and improve the treatment of all child victims. As a first step, special protections for child victims participating in the criminal justice system must be made consistent nationwide.

> *The youngest victims of crime still struggle with a justice system that often remains distant, remote, and unresponsive to the unique vulnerabilities of children. Children are not miniature adults.*
>
> Jay Howell,
> Attorney and Victim Advocate,
> Jacksonville, Florida

The Long-term Impact of Child Victimization

Victimization is a serious threat for America's children and youth. In 1992, the National Institute of Justice released a report, *The Cycle of Violence*, by Cathy Spatz Widom, Director of the Hindelang Criminal Justice Research Center at the University of Albany, New York. The study revealed a significant link between victimization in childhood and later involvement in violent crimes—a cycle of violence.[12] The study found that for some children, violence does, indeed, beget violence. Those who had been abused or neglected as children were more likely to be arrested as juveniles and as adults for a violent crime. On average, abused and neglected children begin committing crimes at a younger age, they commit nearly twice as many offenses as nonabused children, and they are arrested more frequently. Widom also conducted interviews with a large number of people 20 years after their childhood victimization. Preliminary findings from this followup study suggest that the long-term consequences of childhood victimization may also include mental health concerns, educational problems, alcohol and drug problems, and occupational difficulties.

Federal and State Statutes Addressing Child Victims

No. of States	*Federal*	*Type of Statute*
32	X	Limits the release of identifying information about child abuse victims in criminal proceedings.
25	X	Mandates speedy disposition of criminal cases involving child victims or witnesses.
39	X	Extends or removes the statutes of limitation for offenses against children.
16		Affects admissibility of videotaped statements/interviews in criminal child abuse proceedings.
35	X	Affects admissibility of videotaped testimony/dispositions in criminal child abuse cases.
34	X	Affects closed-circuit television testimony in criminal child abuse proceedings.
50	X	Affects case law regarding competency of child witnesses to testify in criminal proceedings.
33		Affects use of special hearsay exceptions for criminal child abuse cases.
2		Limits the length of a child's in-court testimony.
15	X	Permits closing of courtroom during child victim or witness testimony in criminal child abuse cases.
9	X	Permits the use of anatomical dolls in criminal child abuse cases.
15	X	Allows the appointment of guardian ad litems in criminal child abuse cases.
34	X	Mandates or authorizes the creation of multidisciplinary/multi-agency child protection teams.
17		Mandates autopsies in child death cases.
18		Mandates or authorizes creation of child death review teams.
44		Authorizes HIV testing of sex offenders.
50	X	Requires sex offenders to register with a government agency.

American Prosecutors Research Institute's, National Center for Prosecution of Child Abuse, Statutory Summary Project, December 31, 1996.

In April of 1997, the National Institute of Justice released a summary of research, *Prevalence and Consequences of Child Victimization*, conducted by Dean Kilpatrick and Benjamin Saunders of the Crime Victims Research and Treatment Center-Medical University of South Carolina. The report's preliminary findings on the mental health impact of child victimization are highlighted below:

- A significant number of the youthful population have been victims of sexual and physical abuse and have personally witnessed incidents of violence.

- Of the nation's 22.3 million adolescents ages 12 to 17, approximately 1.8 million have been victims of a serious sexual assault, 3.9 million have been victims of a serious physical assault, and almost 9 million have witnessed serious violence. Nearly 2 million appear to have suffered (and more than 1 million still suffer) from post-traumatic stress disorder (PTSD)—a long-term mental health condition often characterized by depression, anxiety, flashbacks, nightmares, and other behavioral and physiological symptoms. About 3.4 million adolescents have been drug or alcohol abusers as well.

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- Among adolescents who have been physically assaulted, 23.4 percent developed PTSD and 14.8 percent still suffer from it, compared to 10.8 and 4.5 percent, respectively, among nonvictims.

- More female than male adolescents had been sexually assaulted: 13 percent of females versus 3.4 percent of males. Sexual assault was defined in the study as "unwanted but actual sexual contact." The researchers noted that this did not include unsuccessful attempts at contact or noncontact victimization such as exhibition.

- Respondents indicated that young males had significantly higher rates of being physically assaulted than females: 21.3 versus 13.4 percent. Behavior that the study considered to be a physical assault included being attacked or threatened with a weapon; being badly hurt from a beating; or being attacked without a weapon but with the intent to kill or seriously injure.

The researchers note that confirmation of the study's hypothesis—that there is a correlation between victimization experiences, PTSD, and delinquency—awaits completion of data analysis. However, preliminary findings indicate the significance of child victimization as a risk factor for adolescents to develop major mental health problems and to abuse alcohol as a means of coping with PTSD. These problems are often a precursor of delinquent behavior.[13]

Children Who Witness Violence

The Medical University of South Carolina's research also measured the lifetime experience of children who witness someone shot with a gun, knifed, sexually assaulted, mugged, robbed, or threatened with a weapon. The researchers did not include witnessing violence portrayed in the media—on television, in the movies, or in print media. In measuring the lifetime experience of children who witness violence, they found that 43 percent of male adolescents and 35 percent of female adolescents had witnessed some form of violence firsthand. Among witnesses to violence, 15 percent developed PTSD, compared to 3.3 percent of surveyed youths who had not witnessed violence.[14]

These new research findings underscore much of what has been known by those who provide counseling and support to children in the aftermath of victimization: that significant long-term mental health and behavior consequences are sometimes the result of childhood victimization. Equally important, the research shows that children who witness violence, such as children who witness domestic violence in their homes, schools, or neighborhoods, may develop long-term mental health problems.

Innovative Programs

Over the past decade, thousands of programs have been initiated across the country to respond to child victims. These programs include multidisciplinary initiatives that provide a coordinated response of various agencies involved in responding to child victims; enhanced support and representation for child victims in the criminal justice and juvenile court system; and prevention programs.

Multidisciplinary Initiatives

Because many child abuse and neglect cases involve simultaneous responses by child protection agencies and law enforcement agencies, professionals have come to recognize the benefits to be gained—not only by the investigating agencies but also by the child victims—when their investigations are better coordinated. Multidisciplinary teams have been developed in hundreds of communities (based in hospitals, police departments and prosecutors' offices, and child protection and nonprofit agencies) to improve coordination and communication among the personnel involved in these cases. One of the most important reforms brought about by multidisciplinary teams is the ability to conduct joint interviews of child victims, reducing the number of interviews and interviewers to which child victims are exposed in the course of an investigation.[15]

> *One of the basic tenets of Children's Advocacy Centers is that children should be provided service in a child-friendly environment. Our criminal justice system was never designed for children, and so, rather than trying to make a police station a place children may feel comfortable, we believe in re-engineering the system to fit children.*
>
> Nancy Chandler,
> National Network of
> Children's Advocacy Centers,
> Washington, D.C.

Children's Advocacy Centers

Perhaps the best example of the team approach to handling child victim cases is children's advocacy centers. More than 350 communities have established or are developing children's advocacy center programs, which allow law enforcement officers, prosecutors, child protection workers, victim advocates, and therapists to interview children in a single, "child-friendly" location rather than in several intimidating environments. Children's advocacy centers provide holistic multidisciplinary case responses to children during various stages of treatment and criminal justice intervention. Some centers have facilities for medical examinations, many are equipped with one-way mirrors and videotaping capacity, and all are furnished with young children in mind. The U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) provides funds to communities seeking to establish or strengthen children's advocacy centers. The funds are administered by the National Network of Children's Advocacy Centers.

Child Death Review Teams

Until recently, the death of a child as a result of chronic abuse was not recognized under most state laws as an intentional homicide, nor prosecuted as first-degree murder. Today, more than 23 states have adopted child "homicide by abuse" laws that do not require proof of specific intent to kill when a child's death results from abuse, thus allowing stiffer sentences, sanctions, and penalties.[16] Child death review teams now exist in all 50 states, and are charged with examining the circumstances surrounding certain fatalities known or suspected to be the result of child abuse or neglect.[17] The goal is to identify indicators or risk factors to signal earlier intervention in hopes of preventing future deaths.

In November 1996, the Interagency Council on Child Abuse and Neglect (ICAN) launched the National Center on Child Fatality Review. With support from the Times Mirror Foundation, the U.S. Department of Justice, OJJDP, and others, the center works to (1) act as a source of information exchange and develop services to provide accountability for the deaths of innocent children, and (2) develop services for survivors of fatal child abuse. The center's repository of information from case reviews provides a valuable resource to prevent future child fatalities as well as serious abuse and neglect and accidental injuries and death.[18]

Court-Appointed Special Advocates

For children who are the subject of protection proceedings, typically in a juvenile court, the Child Abuse Prevention and Treatment Act requires states to provide them with independent representation. Traditionally, children were represented in such cases by an attorney appointed to act as guardian ad litem. Courts in hundreds of communities, however, are also utilizing volunteer court-appointed special advocates who perform independent investigations of the children's circumstances and file their own reports. A special organization, the National Court-Appointed Special Advocate Association, is funded by OJJDP to help courts establish a volunteer program and to standardize training for volunteer advocates.

The American Bar Association has developed standards and practices for lawyers representing children in abuse and neglect cases. In addition, numerous victim assistance programs have expanded their roles to include specific support mechanisms or special programs for child victims. The most extensive programs offer education for children about the criminal justice system and their role as witnesses; tours of the courtroom and introductions to judges, bailiffs, and attorneys; and role-playing opportunities to practice answering questions in the courtroom. Some programs even teach children stress reduction techniques. Victim advocates also work with children to prepare victim impact statements and offer support for children who choose to speak at sentencing hearings.

Juvenile Court Handling of Child Abuse and Neglect Cases

Several important developments are helping to make the civil juvenile/family court child protection system work with greater effectiveness and speed in cases involving maltreated children. In 1995, the Children's Bureau of the U.S. Department of Health and Human Services began distributing funding to state court systems to evaluate and improve court system operations statewide in child abuse and neglect related proceedings. Forty-eight states have participated in the program and are now improving their court operations in various ways. Based upon administrative reforms undertaken by the Hamilton County Juvenile and Family Court in Ohio, the National Council of Juvenile and Family Court Judges in 1995 developed and published a document, ***Resource Guidelines: Improving Court Practices in Child Abuse and Neglect Cases,*** that sets forth the essential elements of properly conducted court hearings and describes how courts can more efficiently manage their work to ensure each child receives a fair, thorough, and speedy court process.

Funding provided by OJJDP also enables the National Council of Juvenile and Family Court Judges to help jurisdictions nationwide to begin high-quality judicial processes for abuse and neglect cases. Through the project, 10 model courts are instituting various court reforms for the benefit of children under their care. Additionally, the Children's Bureau has begun to develop guidelines for model child welfare legislation to help the courts better protect children and place them in safe, permanent homes.

In the zeal to prosecute offenders, the vulnerabilities and needs of child victims can too easily be overlooked. Much progress has been made over two decades to help reduce legal system-related trauma to children. We must remain vigilant and careful in applying these reforms, and we shouldn't forget the still often unmet needs of most child victims of crime.

Howard Davidson,
Director, American
Bar Association,
Center on Children
and the Law,
Washington, D.C.

Training to Address the Needs of Missing and Exploited Children

Numerous initiatives have been undertaken in the past decade to address the training needs of people who work on cases involving missing and exploited children. For example, each year OJJDP trains more than 4,500 law enforcement officers through its Missing and Exploited Children Training and Technical Assistance Program. The program's comprehensive courses are designed to increase skills and abilities, enhance service coordination, and improve the investigation and handling of missing and exploited children cases.

Safe Kids/Safe Streets

In 1996, several agencies within the U.S. Department of Justice, Office of Justice Programs cooperated in developing and funding the program Safe Kids/Safe Streets: Community Approaches To Reducing Abuse and Neglect and Preventing Delinquency. Administered by OJJDP, Safe Kids is an innovative, 5½-year demonstration project that improves community response to child and adolescent abuse and neglect to break the cycle of victimization in childhood leading to delinquency later in life. Five sites have been funded through Safe Kids: Huntsville, Alabama; the Sault Sainte Marie Tribe of Chippewa Indians in Michigan; Kansas City, Missouri; Toledo, Ohio; and Chittenden County, Vermont. The sites are working toward 3 main objectives: (1) restructuring and strengthening the criminal and juvenile justice systems to be more comprehensive and proactive in helping children and adolescents and their families who have been or are at risk of being abused and neglected; (2) implementing or strengthening coordinated management of abuse and neglect cases by improving policies and practices within the criminal and juvenile justice systems and the child welfare, family services, and related systems; and (3) developing other comprehensive communitywide, cross-agency strategies to reduce child and adolescent abuse, neglect, and fatalities.

Prevention Programs

Over the past decade, child abuse prevention programs have been initiated in hundreds of communities across the nation. Sexual assault prevention programs are being conducted in schools and in youth-serving organizations,[19] and physical abuse prevention programs geared toward parents are being offered in home, hospital, or community settings. Children's Trust Funds have been established in every state to support a wide range of prevention activities.

Early intervention programs have also been developed in communities across the country, and they are uniquely situated to reach children who may be victims of child abuse or neglect. Head Start, begun in 1965 and administered by the Administration for Children and Families within the U.S. Department of Health and Human Services, provides comprehensive developmental and social services for pre-school children and their families, serving nearly 750,000 in 1996 alone.[20] Another successful prevention program, Healthy Start, has been initiated in 110 pilot programs in 24 states. Started in Hawaii, the program sends visitors to the homes of high-risk parents to offer parenting education and support.[21] Healthy Start was cited by the U.S. Advisory Board on Child Abuse and Neglect as an outstanding child abuse prevention program that should be replicated nationwide.[22]

Communities are also recognizing that runaway and homeless youth need comprehensive services. Runaway and homeless youth are at exceptionally high risk of HIV infection, and OJJDP has identified innovative programs serving this population with a special emphasis on HIV prevention. One example is the Los Angeles High Risk Youth Program, which offers multifaceted and coordinated services through the Division of Adolescent Medicine at Children's Hospital Los Angeles.[23]

Recommendations from the Field for Child Victims

Virtually every section of *New Directions* includes recommendations to enhance services for child victims. They include:

- Creating specialized units for the investigation and prosecution of child abuse.
- Establishing courtrooms designed especially for children.
- Expanding educational programs regarding the special needs of children for police, prosecutors, and the judiciary.
- Broadening resources needed to meet the mental health needs of children who are victimized, such as improved access to crime victim compensation.
- Disseminating protocols for medical professionals concerning the diagnosis and treatment of child abuse.
- Expanding victim awareness, crisis response, and violence prevention programs throughout the nation's educational system.

In addition to these proposals, this chapter provides recommendations for increased services for children as well as important reforms in the criminal justice system to benefit children.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #1

Communities should establish children's advocacy centers to provide child-friendly locations where abused children can receive the services they need to heal and provide information for the evaluation and investigation of their cases. To ensure the highest quality of intervention, training should be provided to professionals on conducting forensic interviews, to medical professionals on conducting child abuse examinations, and to mental health professionals on employing abuse-specific treatment approaches.

One of the most important innovations this decade in providing services to child victims has been the proliferation of children's advocacy centers. Children's advocacy centers use a multidisciplinary team approach to reduce the number of interviews abused children must endure and to deliver intervention services that are coordinated. Having law enforcement professionals, prosecutors, medical and mental health personnel, and child advocates working together ensures that children are not revictimized by the system and that they are provided with the best possible services. Similar programs should be created in every community.

To ensure each community has qualified specialists, professional schools should provide training in treating abused children and should consider the certification of child abuse treatment specialists, including child interview specialists, pediatric specialists in child abuse, and trauma recovery specialists in the mental health field.

We have a relatively recent understanding of the links between child abuse and domestic violence and the complexity of balancing what is best for the children with what is best for the mothers. The question is: how do we best protect children in a family where other forms of violence are prevalent? We need to recognize that these issues are all part of a whole.

Debra Whitcomb,
Senior Scientist,
Education Development
Center, Newton, Massachusetts

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #2

Children who witness violence should be provided the same level of victim assistance and special protections within the criminal and juvenile justice systems as child victims.

A growing body of research suggests that children are adversely affected by witnessing acts of violence in their homes, their communities, and the media. Children who witness violence are subject to many of the same traumatic reactions that beset child victims of crime, which include fear, anxiety, and various symptoms associated with PTSD.[24] For some children there is also an increase in violent behavior.[25]

Children who witness violence deserve the same protections in the criminal justice system, including secure waiting areas and court accompaniment, that have been extended to child victims, and they need access to victim services such as mental health counseling. Special programs have been established in battered women's shelters, schools, and community-based organizations to help children cope with the emotional aftermath of witnessing violence. These programs should be expanded.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #3

To ensure child abuse cases are recognized and reported as early as possible, training on the identification and signs of abuse, as well as the impact of child victimization, should be provided to all professionals who come into contact with child victims.

Professional schools in medicine, mental health, education, law, theology, and other related disciplines should require courses in child victimization. Physicians and other allied professionals should be alert to signs of abuse and neglect among children who may appear to have a variety of unrelated ailments. Particular effort should be made to detect abuse in cases in which the death of an infant may have been the result of "shaken baby syndrome" or other injuries that are difficult to detect or diagnose. When such abuse is identified, the case should be reported and referred to designated specialists in the field of child abuse affiliated with a local multidisciplinary team or to a children's advocacy center, if one exists.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #4

There should be an improved governmental response to the problem of missing, abducted, and sexually exploited children.

State Missing Children's Clearinghouses now exist in all states, and 34 nonprofit organizations have been established nationwide to assist families of missing children. These organizations should be provided funding to educate the public on how parents can prevent their children from becoming victims of an abduction, including those committed by noncustodial parents and family members, or sexual exploitation. States should establish uniform procedures for responding to missing children's cases and implement uniform law enforcement training requirements, as recommended by the National Center for Missing and Exploited Children.

Also, states should implement records-flagging procedures and require that new school enrollments be submitted to the State Missing Children's Clearinghouses. States should make custodial interference a criminal felony offense, without a requirement for a pre-existing custody order. Laws and policies on family-related child abduction should be coordinated with child abuse and domestic abuse statutes and procedures to focus on the best interests of the child.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #5

All jurisdictions should establish or support "court school" programs to help educate child victims and witnesses about the court process and their role within it.

Because the testimony of a child victim or witness often plays a substantial role in the prosecution of a criminal case, it is important that children become familiar with the courtroom setting. Many children have preconceived notions of the judicial process from the media and television, and these notions are often accompanied by intense fear and anxiety. It is important to the prosecution of criminal cases involving children that these fears be allayed before a child's day in court, and "court schools" are among the most effective means to prepare children for participation in the legal system.

In a few larger jurisdictions, such programs have been established as a result of the large number of child sexual abuse cases prosecuted in those jurisdictions. In Los Angeles, for example, a "Kids in Court" program is sponsored by the Junior League, and a court school in San Diego is operated by the Center for Child Protection at Children's Hospital. In Philadelphia, a similar program is based in the district attorney's office. Despite the different sponsors, each program uses a similar structure to familiarize children and their families with the court's physical environment, procedures, and practices, as well as to explain what is expected of them as witnesses.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #6

States should enact legislation to open access to criminal history records, and they should adopt regulations and policies necessary to meet the requirements of the National Child Protection Act.

In 1993, Congress enacted the National Child Protection Act to upgrade state policies and criminal history record systems so that designated state agencies could, on behalf of child and youth care organizations, promptly obtain nationwide criminal history information on prospective employees or volunteers who would have contact with children. In 1995, the American Bar Association Center on Children and the Law issued a report that broadly examined the practices used by child-serving organizations to screen prospective employees and volunteers. The U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention will be issuing guidelines for screening practices and policies in 1998.

Although not required by the National Child Protection Act, in the interest of children, states should enact laws to provide relevant agencies and individuals with prompt access to applicable criminal record information on potential providers of care for children. Relevant agencies and individuals include schools, children and youth service agencies, recreation programs, and families seeking information on applicable criminal record information on applicants for positions in which individuals would be working with children.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #7

The federal government should examine data collection regarding child victimization to ensure that all crimes against children, from their birth through the age of majority, are uniformly reported, categorized (by age of the child, type of crime, and offender relationship to the child), and analyzed at the state and federal levels.

Better statistics are fundamental to prioritizing research, resource allocation, and program development for child victims. Victimization surveys should be extended to include crimes against children, including child deaths. Congress should enact legislation and appropriate funds to expand the FBI's Uniform Crime Reports and the National Crime Victimization Survey to include crimes against children. Congress also should appropriate funding to further the implementation of the National Incidents Based Reporting System (NIBRS), which readily permits collection of data on victim age and victim/offender relationship. States should also enact uniform legislation and law enforcement procedures that will help capture an annual picture of the various types of crimes against children. The Departments of Education and Justice should explore the potential for sharing methodologies and should examine the feasibility of surveying children under 12 through interviews at school. The worthiness of relying on parental reporting of crimes involving very young children should be examined, and a national data collection initiative on cases involving computers to exploit children should be developed.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #8

All states should authorize judges to exclude from the courtroom persons who are not necessary to child-related court proceedings if requested by the victim or the victim's representative or if the court determines that there would be a likelihood of "substantial psychological harm" if the child were to testify in open court.

Laws in 15 states and at the federal level have been enacted to provide this special protection for child victims. The U.S. Supreme Court in *Globe Newspaper Co.* v. *Superior Court* held that states can prohibit the disclosure of victims' names before they become part of the public record and that courts may exclude the press and general public from the courtroom during certain types of testimony.[26] Federal law provides, however, that a judge may close the courtroom only after determining on-the-record that there is a likelihood of "substantial psychological harm" if the child were to testify in open court.[27] Furthermore, the order to close the courtroom must be "narrowly tailored to serve the Government's specific compelling interest."[28]

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #9

State laws should be reviewed and amended where necessary to protect the privacy of child victim records including audio- and videotaped interviews.

Currently, 32 states and federal law provide this right.[29] The U.S. Supreme Court in *Pennsylvania* v. *Ritchie*[30] held that judges should review in private the records of child victims being requested by the defendant and should turn over only information material to the defense. This right provides a mechanism for courts to safeguard confidential records of child victims and provides protection of the confidential communications of child victim counselors and advocates.

Furthermore, privacy concerns for child victims should extend to the mass media as well. State court officials, juvenile/criminal court judges, and legislators should explore ways to minimize unnecessary and harmful intrusions by the media and the general public into the privacy of child victims and their families, particularly concerning the revelation of children's identities. Courts should promote responsible and useful media coverage of crimes against children and the judicial handling of civil child abuse-related proceedings.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #10

All states and the federal government should enact or amend child hearsay rules to govern the admission into evidence of reliable statements made by children under 16 years of age to an adult concerning acts of physical and sexual abuse.

Child hearsay laws create special exceptions to the use of hearsay evidence at trials by permitting out-of-court statements made by children concerning their abuse to be admitted at trial. Such laws have been enacted in 33 states, though they vary greatly nationwide. There is no such right, however, at the federal level. Some jurisdictions allow child statements concerning abuse to fall under catchall or residual hearsay exceptions, but these exceptions are subject to rigid legal restrictions. To impose more consistency, hearsay rules should *not* include the following provisions: limiting the exception to statements made by the child to only certain groups of professionals; limiting use of hearsay to preliminary hearings; and requiring corroboration as an absolute prerequisite for admission into evidence. When crafted carefully, state child hearsay statutes have been held to not violate a defendants' constitutional rights or improperly deny the defendant the right to cross-examine witnesses, even in cases in which the child does not appear in court as a witness.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #11

Additional court procedures should be implemented to assist in the prosecution of child victimization cases.

States that have not done so should enact laws to toll their statutes of limitations for both criminal proceedings and civil tort actions during the period of a child's minority, for a reasonable time period thereafter, and for a reasonable time after the victim discovers that he or she has been the victim of a crime during childhood. State statutes should also provide a civil cause of action for childhood victims of crime against any person (including a parent or guardian), with specific provisions for recovery of attorney's fees and other costs.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #12

Courts and prosecutors need to be provided uniform guidance on establishing competency when a child's capacity to testify is challenged.

While all states and the federal government have enacted laws that presume children to be competent witnesses as long as they meet certain minimum criteria, their competency is often challenged by the defendant. In general, the minimum criteria for a child to serve as a witness are the capacity to understand the difference between truth and fantasy and appreciate the obligation or responsibility to speak the truth; sufficient mental capacity at the time of the alleged incident to observe or receive and record accurate impressions of the incident; sufficient memory to retain an independent recollection of the incident; and the ability to translate into words recollections of the alleged incident.[31] In *Kentucky v. Stincer*, the U.S. Supreme Court held that the defendant need not be present during the competency inquiry.[32] To ensure the sensitive treatment of child victims throughout this process, judges should receive guidance on how to elicit information from children in a nonthreatening manner.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #13

All states should enact statutes requiring speedy criminal trials and civil child protection adjudications for child victims. In addition, all court cases involving child victims, including criminal, juvenile, domestic violence, and domestic relations, should implement speedy trial and appellate provisions and utilize "child victim" court dockets. In every case involving a child victim, judges should weigh the adverse effect of continuances and delays.

I am concerned about the length of time it takes to bring a child sexual abuse case to trial. One of my cases involves an 8 year-old child that reported sexual abuse by her uncle almost 3 years ago. This is has been very difficult for the child, especially emotionally, considering her developmental stage. The criminal justice process is difficult enough for children without lengthening it.

A Victim Advocate

The right of a child victim to have a speedy trial has been enacted in 25 states and in federal law. In practice, however, these laws are rarely invoked.[33] Most prosecutors report that every case involves at least one continuance as a result of competing cases on the courts' calendars or claims by the defendant of inadequate time to prepare an effective defense.

In 1995, the National Council of Juvenile and Family Court Judges issued a set of resource guidelines for courts to follow in expediting the resolution of civil child protection cases. Similar guidelines should be developed for all other court cases involving children. States are also taking innovative approaches to this problem. In Ramsey County, Minnesota, victim advocates in the county attorney's office routinely flag cases requiring expedited disposition. In St. Paul, the police department has detailed a special investigator to the child protection agency to review incoming abuse reports for cases that warrant criminal justice intervention.[34] Other communities are developing comprehensive, coordinated, interagency protocol for investigating child abuse and exploitation.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #14

All states should consider alternatives to live in-court testimony for children under the age of 18.

Currently, 35 states and the federal government recognize the right to use videotaped testimony taken at depositions or preliminary hearings for children under the age of 18. Additionally, 34 states and the federal government recognize the right to use closed-circuit television testimony. The U.S. Supreme Court's decision in Maryland v. Craig permits the use of closed-circuit television testimony when a determination is made by the court that "the child will suffer serious emotional distress such that the child cannot reasonably communicate."[45] The Court determined that one-way closed-circuit television testimony is the "functional equivalent" of live, in-court testimony. The use of videotaped testimony presents different Sixth Amendment considerations, such as a possible violation of the defendant's right to confrontation, but these issues were not addressed by the Court in Craig.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #15

Specially trained lawyers and court-appointed special advocates should be provided to children in all civil child protection and other abuse-related proceedings.

Guardians ad litem play an important role in representing child victims in legal settings, and their assistance should be extended to all criminal, domestic relations, and domestic violence proceedings.[46] This right, while protected on the federal level, is recognized in only a minority of states.[47] Guardians ad litem assist child victims in a variety of important ways. They issue recommendations to the court concerning the child's welfare, coordinate the delivery of resources to the child, provide access to the child's records, and attend all court proceedings in which a child participates. Guardians ad litem and court-appointed special advocates are seen as a bulwark against system-induced trauma on the child and provide a critically needed voice for the child's legal rights.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #16

Early intervention programs such as Head Start and Healthy Start programs should be implemented nationwide. The staff of

these programs must be trained to recognize the signs of child abuse, how to report abuse to appropriate authorities, and how to provide referrals for victims and their families.

Head Start, Healthy Start, and other early intervention programs provide a unique opportunity to reach thousands of children who may be victims of child abuse or neglect. The cornerstone of the Head Start program is parent and community involvement. Approximately 1,400 community-based nonprofit organizations and school systems participate in Head Start programs, assisted by over a million volunteers.

The Healthy Start approach in which parenting education and support is offered to high-risk parents is widely believed to be effective in preventing incidences of child abuse and neglect. Many Healthy Start pilot programs have been developed across the country, and results of these programs should be closely analyzed and disseminated. The Healthy Start program could be instrumental in reducing the number of child abuse cases that lead to homicide. As one report stated, nearly 50 percent of children who die from maltreatment in the United States are known to be at some level of risk by child protective service agencies.[38]

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #17

Child-serving institutions such as schools, social service and law enforcement agencies should make diligent efforts to identify troubled youth and refer them to social service or victim assistance programs before they run away from home. Efforts should also be undertaken to identify and assist runaway, thrownaway, and homeless child victims.

Runaway, thrownaway, and homeless youth are the largest single category of missing children, and they frequently run away because they are physically or sexually abused in their homes. On the streets they continue to be victimized. Cooperation between law enforcement agencies and programs that serve runaway and homeless youth should be enhanced. These children display a range of warning signs that can alert professionals to intervene before they fall to the lure of the streets or opportunistic perpetrators.[39] Police should be aware that community-based agencies offer a range of services that can help them.

Additional transitional housing, independent living skills, job training, and intensive aftercare programs should be funded to ease the transition of these youth to self-sufficiency. It is inappropriate and sometimes dangerous to return runaway or thrownaway youth to families who have abused or neglected them. Alternative living programs can help these children learn to adapt to a more mainstream environment and adopt a healthier lifestyle.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #18

Child abuse prevention programs that address computer exploitation should be developed and publicized.

The prevalence of child sexual exploitation through computer networks is becoming an increasingly difficult problem for law enforcement. Plummeting costs of sophisticated video recording and computer equipment have made child pornography almost universally accessible. Furthermore, unregulated communication via e-mail and chatrooms enables adults to solicit children for sex with little fear of detection. Lawmakers are working to address this issue. For example, Representative Bob Franks introduced a bill in July 1997 that would add Internet service providers to the categories of professionals who must report suspected child abuse to law enforcement.[40] Efforts should continue to support private enterprise in assuming an assertive role in crime prevention. Internet access providers must examine ways to monitor or regulate use of the Internet to exchange child pornography or solicit children for sex. Research on First Amendment rights as they apply to communication on the Internet should inform the development of initiatives to protect children from such exploitation. In addition, parents who lack computer literacy need guidance in protecting their children from unscrupulous Internet operators and users.

> *A shelter in Florida organized a special Christmas dinner for battered women and their children. Even though Santa Claus was there distributing gifts, the children were more drawn to the uniformed law enforcement officers providing security for the event. Clearly, the children had more contact with police officers than Santa Claus in their short lifetimes.*
>
> A Domestic Violence Advocate in Florida

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #19

Federal and state governments should support the significant additional research that is needed to document effective treatments for child victims, especially victims of child sexual and physical abuse and children who witness violence.

In 1995, two leading child abuse researchers, David Finkelhor and Lucy Berliner, reviewed the findings and conclusions from 29 studies evaluating the effectiveness of treatments for sexually abused children. Based on their review, they strongly recommended that further studies be conducted in the following areas:

- The efficacy of treatment for sexually abused children. The studies Finkelhor and Berliner reviewed documented improvements in sexually abused children consistent with the belief that therapy facilitates recovery, but more research is needed to document that recovery is not caused by the passage of time or some factor outside therapy such as parental support.
- The implications for the organization of treatment and its evaluation caused by the fact that sexual abuse treatments confront a very diverse set of children, including children of all ages, children with a variety of histories and presentations, children with many different kinds of symptoms, and children who display no symptoms.
- The reasons why some children fail to improve and who these children are.
- The possible existence of serious "sleeper" effects, or serious symptoms that may not surface until many years later. For clinicians, a big unanswered question is not just how but also whether sleeper effects can be prevented by early intervention.
- The importance of family context on recovery, including parental support and healthy conflict management. The effectiveness of treatment for children is likely to be strongly influenced by the family context, and addressing it should be a very important priority for intervention.
- The utility of abuse-focused therapy and targeted interventions.
- The optimal length of treatment. Some studies have found that symptoms continue to improve as therapy extends for as long as 12 months.[11]
- The problem of treatment dropouts.
- The development and use of abuse-specific outcome measures.

Additional research should also examine interrelationships between domestic violence and child abuse.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #20

Convictions and substantiated allegations of spousal or child abuse should create a rebuttable presumption against awarding temporary or permanent custody to an offending parent. Parents convicted of child or spousal abuse should not be granted the right to visitation without independent supervision.

Newspapers are replete with tragic accounts of child abuse victims being returned to an abusive parent only to die in a subsequent incident of abuse. Society and family law, as a reflection of society, historically has granted great deference to the rights of parents and the principle of family unity. However, such admirable objectives should not be given priority over the safety or the life of a child. Studies have documented the short- and long-term devastation that parental abuse inflicts on its victims.[42] As such, it is rarely, if ever, in the best interest of the child to be returned to an abusive parent. Similarly, the risk of additional injury to the child at the hands of an abusive parent far outweighs that parent's right to unsupervised visitation and calls into serious question whether such visitation should be granted in such cases.

Studies also indicate that children of parents who abuse their spouse have a 1500 percent higher risk of being abused than children in nonabusive families.[43] Studies also evidence the psychological trauma children suffer when they witness violence among family members.[44] Given the inherent risk to children in such circumstances, family courts should presume that it is always in the best interest of the child to grant custody to the nonabusive parent/spouse. Numerous states have adopted similar presumptions as a matter of law.[45]

In cases in which child or spousal abuse has been alleged but not proven in a court of law, family courts should err on the side of the child's safety by ordering temporary custody to the spouse who has not been accused unless or until such an allegation has been proven to be unsubstantiated or otherwise without merit.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #21

States should include driving while under the influence of alcohol or other drugs with children in the vehicle as a form of child endangerment. Such drivers should receive

enhanced sanctions when criminally convicted, and evidence of driving under the influence should be considered by family and juvenile courts when determining custody and visitation rights in cases affecting the parent-child relationship.

No one should get into a vehicle driven by an individual under the influence of alcohol or other drugs. Children, however, sometimes do not have a choice. Research indicates that motor vehicle crashes outrank all other diseases and injuries as the major cause of death for children up to the age of 14. During the last decade, approximately 24,350 children younger than 13 were killed in motor vehicle crashes. One study showed that 56 percent of children killed in crashes in 1993 were passengers. About 23 percent of children killed in that age group were killed in alcohol-related crashes.[46] This serious threat to the lives of children must be addressed by the child protection community as well as by criminal and civil courts when considering the safety of children.

CHILD VICTIMS RECOMMENDATION FROM THE FIELD #22

Health insurance providers, particularly managed care providers, should ensure that their practices facilitate immediate, specialized assistance for child victims and witnesses of crime. Managed care providers should to link with multidisciplinary children's advocacy centers or teams and should authorize payments for out-of-plan examinations by specialists in the treatment of child abuse without prior approval.

Prompt provision of qualified care to child victims and witnesses of crime is essential. Unfortunately, some health insurance providers do not differentiate between the needs of these children and others with more general needs. Steps can and should be taken to eliminate an unnecessary barrier to serving and meeting the needs of children who are the victims or witnesses of crime. Whether child victims are seen in or out of managed care networks, protocols should be developed to allow them to bypass the "gatekeeper" of the managed care system through a referral by a member of a multidisciplinary team. Managed care providers should also be required to include specialists in the treatment of child abuse on their panel of mental health providers.

Cost-control and gatekeeper requirements of managed care plans can place hurdles to timely access to expertise in child abuse evaluation and treatment. These delays can lead to multiple and contradictory examinations of the child and multiple interviews, increasing the child's trauma. To save unnecessary trauma and costs, managed care systems should be required to recognize and provide access to specialists in the evaluation, investigation, and treatment of child abuse cases.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

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New Directions in International Victim Assistance

Individuals throughout the world—in large urban cities and in small villages—face problems with crime and violence and much can be gained from examining the unique approaches to addressing the rights and needs of crime victims that have been undertaken by diverse communities and nations. Increasing numbers of people travel and live abroad, and are victimized in countries where they may be unfamiliar with the language and legal and social service systems. In addition, crimes such as international terrorism and commercial sexual exploitation of children are well documented. This section discusses international issues facing the field of victim assistance today and briefly highlights approaches that have been taken in other countries to address crime victims' needs. In addition to serving their own victims domestically, many countries are participating in international collaborative efforts to improve the rights and treatment of crime victims worldwide. Finally, the section makes recommendations for improving services to American citizens who are victimized abroad and foreign citizens who are victimized in the United States, as well as continued collaboration and reciprocity in the provision of victim services worldwide.

CHAPTER 18

International Perspectives in Victim Services

Victimology is increasingly recognized as an international field of research and action, transcending many cultures and legal systems. The United States is visited by millions of foreign nationals each year, and citizens of the United States travel and live in virtually every part of the world. As our societies become more global and mobile, it is no longer possible to confine victim assistance to the borders of a particular country. Crime and victimization have become transnational, and countries must look beyond their national boundaries to share information, technology, and resources to assist victims.

Crime afflicts urban populations in all parts of the world. The extent of that crime was recently examined through the ***International Crime [Victimization] Survey***, which measured crime in more than 50 different countries. By bypassing differences in legal codes and definitions of crime that have made comparing crime data among countries difficult, the survey has produced the most comparable cross-national data on crime available to date. Conducted in 1989, 1991, and 1996, the survey found that more than a third of all urban dwellers in the world do not feel safe in their own neighborhoods at night and that crime rates are highest in major cities in Africa and Latin America. In every country surveyed, including the United States, no more than 10 percent of victims received assistance from a specialized victim assistance agency.[1]

Countries can learn a great deal from one another about ways to address crime victims' needs. Rights and services for crime victims vary considerably from one country to another. Crime victims in some countries enjoy greater participatory rights in court than do victims in the United States. For example, victims in some countries can review evidence, ask questions during the trial, be represented by an attorney at the country's expense, and even appeal the decision of a prosecutor not to file their case. A few countries provide victims with an ombudsman to help ensure enforcement of their rights. Other countries have established innovative partnerships or stronger laws to help protect victims:

> *Crime victimization and violence has become an international epidemic. It is imperative that victim assistance become an international antidote and the central feature of a universal strategy of victimization prevention.*
>
> Marlene A. Young,
> Executive Director,
> National Organization
> for Victim Assistance

- In Cordoba, Argentina, a victim assistance program has developed a multidisciplinary approach in which every victim referred to the program is met by two people: a mental health worker who helps the victim with the psychological trauma of victimization, and a lawyer who helps the victim through the criminal justice process.
- Throughout Brazil, there are more than 500 police stations staffed entirely by women to provide services to victims of domestic violence and sexual assault. The stations, which are being replicated in Japan and Costa Rica, were created because they encourage female victims to report crimes.
- In France, a survivor of a terrorist attack in Paris created an association for terrorism victims in 1986 called S.O.S. Attentats. The association helped to establish a compensation fund for victims of terrorism, and provides counseling and forums for these victims to share their trauma. The association also provides legal advocacy, including assistance with filing civil lawsuits.
- In Canada, a law was recently passed to provide standing for crime victims in cases involving the potential release of their records. Legal aid lawyers help to represent victims in these cases.
- For years, Australia and some Scandinavian and European countries have had strong drunk driving laws, allowing blood alcohol levels of only .02 to .05, less than half of that in most states in the United States.
- In many areas in New Zealand, law enforcement responds with social workers to domestic violence calls. The country is currently pilot testing the creation of victim assistance programs in courts in four jurisdictions.
- In South Africa, programs have been developed to educate men about domestic violence.

The 1982 *Final Report* of the President's Task Force on Crime Victims did not specifically address international issues, but a few years after its publication, the United States began to take an active role at international conferences and meetings related to victims of crime. A U.S. delegation to the 1985 United Nations meeting on crime issues worked on drafting the resolution that later became the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.[2] A similar U.S. delegation was active in raising issues of domestic violence at the 1985 U.N. Conference on Women in Nairobi, Africa. Then Assistant Attorney General Lois Haight Herrington, who chaired the 1982 Task Force, was a leading figure in both delegations.

Since the release of the 1982 *Final Report*, there has been increased attention in the United States on the unique needs of American citizens victimized abroad, as well as those of foreign citizens victimized in the United States. There have also been considerable efforts to address victimization issues at an international level. While the complexities of transnational victimization are too numerous to cover comprehensively here, this chapter outlines some of the activities that have been undertaken at the national and international level to address the realm of international victim assistance.

International Collaboration on Victims Issues

While international interest in the victims movement is still relatively new, the first work in the field of victimology was pioneered in the 1940s by an Israeli researcher, Beniamin Mendelsohn, and a German researcher, Hans von Hentig. Later, the work of English legal reformer Margery Fry resulted in the passage of victim compensation legislation in New Zealand in 1963, soon followed by Great Britain and several states in the United States. The rape crisis movement emerged in the United States and other countries in the early 1970s.

International recognition of victimology as a distinct branch of criminology came with the first International Symposium on Victimology, held in Jerusalem in 1973, where a series of papers on victim compensation, crisis intervention, and the concept of a victim ombudsman were presented. By the end of the 1970s, those ideas were reflected in the establishment of victim service programs such as rape crisis centers, domestic violence shelters, and victim-witness units in a number of countries including the United States, the United Kingdom, and Canada.

United Nations Initiatives

During the past two decades, the United Nations has undertaken a number of initiatives to address the myriad needs of crime victims at the international level. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Declaration) was adopted by consensus in the United Nations General Assembly in 1985, reflecting the collective will of the international community to address the interests and concerns of victims of crime.[1] Considered a Magna Carta for crime victims around the world, the Declaration is based on the philosophy that victims should be treated with compassion and respect for their dignity, and that they are entitled to access the mechanisms of justice and to receive prompt redress for the harm they have suffered.

The Declaration purposefully speaks of basic principles of justice for crime victims, which include access to justice and fair treatment, restitution, compensation, and assistance. The last category includes

> *Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.*
>
> United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

material, medical, psychological, and social assistance through comprehensive use of governmental, voluntary, community-based, and indigenous groups. The Declaration also addresses various principles of justice for victims of abuse of power.

Governments and organizations around the world have responded to the challenge of implementing the Declaration in different ways. Victim justice became a much livelier public issue in Poland, Sweden, India, the Philippines, Brazil, and Germany, to cite six of many possible examples, following its adoption. Victim assistance programs and services have developed around the globe in such diverse nations as Japan, New Zealand, Nigeria, The Netherlands, and Mexico. Other countries, however, have only begun to establish mechanisms to respond to victims' concerns.

The United Nations has undertaken a number of initiatives in recent years to foster implementation of the Declaration worldwide. In 1996, the fifth session of the United Nations Commission on Crime Prevention and Criminal Justice in Vienna, Austria, adopted a resolution calling for the development of an international victim assistance training manual to help countries worldwide develop programs for victims of crime. The Office for Victims of Crime has taken a leadership role in working with scores of experts in victim issues from every region of the world, to develop a ***Handbook or Justice for Victims,*** and an accompanying ***Guide for Policymakers.*** Both documents, which contain promising practices and victim assistance approaches from countries around the world, will be submitted for consideration at the seventh Session of the U.N. Crime Commission in 1998.

In 1995, the Fourth United Nations Conference on Women in Beijing, China, was a significant step forward in the international arena for victims of domestic violence. The Conference's final document, the Platform for Action, is a powerful and progressive statement about the empowerment of women and the imperative to eliminate violence against women in all its forms.

It is a violation of human rights when individual women are raped in their communities and when thousands of women are subjected to rape as a tactic or prize of war. It is a violation of human rights when a leading cause of death worldwide among women ages 14 to 44 is the violence they are subjected to in their own homes. If there is one message that echoes forth from this conference, it is that human rights are women's rights . . . and women's rights are human rights.

First Lady Hillary Rodham Clinton, United Nations Fourth World Conference on Women, Beijing, China, September 5, 1995.

Emerging Issues in International Victim Assistance

A number of international victimization issues have become increasingly apparent to the victim assistance field in recent years, including crimes against international tourists, victim compensation, international terrorism and crisis response, and crimes against children. These issues are discussed below.

Victimization of Tourists

International tourist crime is a chronic and growing problem, increasingly causing economic decline, deterring investment, and threatening quality of life in countries all over the world. Tourists who become victims often face unique issues such as isolation and culture shock, lack of familiar social support, travel stress, and language barriers. In addition, most tourists are not familiar with the laws of the country they are visiting, or the criminal justice, social services, health, and mental health systems they must interact with after victimization.

Throughout the world, tourist-dependent economies have implemented a variety of promising, comprehensive programs to deal with the increasing number of tourists who become victims of crime. Many of these programs assist both domestic and international travelers. Programs to assist tourist victims have been implemented in the United States in New York, New York; Orlando, Florida; and throughout Hawaii. They are also available in Dublin, Ireland; Amsterdam, Netherlands; Buenos Aires, Argentina; San Jose, Costa Rica; and throughout New Zealand and Aruba. Specialized services provided by these programs generally include replacement of personal identification, assistance with transportation and lodging, emergency medical assistance, advocacy and support through embassies and consulates, bereavement services, and communication assistance.

> *I wasn't informed that I should call the Canadian consulate at the time, nor were any contacts made to the Canadian consulate about the crime, even after I requested it.*
>
> A Canadian tourist victimized in the United States

Crime Victim Compensation Around the World

In countries all over the world, victims of crime suffer physical injuries, emotional pain, and financial losses. While many nations provide victim compensation benefits, they often do not apply to foreign travelers. When they do, the small percentage of victim tourists who learn that compensation benefits are available are often discouraged by the legal intricacies of applying for compensation.

To inform travelers from all nations about benefits that exist in the country they are visiting and how to apply for those benefits, the Office for Victims of Crime, in partnership with the U.S. Department of State, developed an *International Victim Compensation Program Directory* in 1996. The State Department sent surveys to U.S. embassies in 174 nations, and questionnaires were then forwarded to the appropriate officials in each country. Of the 91 countries that responded, 30 countries in addition to the United States reported that they have established victim compensation programs. These programs are listed in the directory. Unlike compensation programs in the United States, a number of countries, including Austria, Belgium, and Denmark, do not place maximum award limits on compensation benefits. All but three countries offer benefits to foreign citizens victimized in their country, and seven countries compensate their own citizens who are victimized abroad. Three countries, including the United States, specify that compensation benefits are to be made available to victims of terrorism. Three additional countries, Colombia, Italy, and Israel, operate compensation programs solely for victims of terrorism. The Netherlands provides compensation for legal aid expenses as well as aid for extensive services to replace work in the home previously performed by the victim.[4]

International Terrorism and Crisis Response

International crises such as terrorist attacks involve victims and survivors from many different countries, and local caregivers are sometimes unable to intervene usefully due to lack of education, resources, and language and cultural barriers. Moreover, because of complicated international investigations which frequently involve multiple jurisdictions, the rights, needs, and services available to victims of terrorism may be overlooked.

The unfortunate lesson that I have learned is that there is no one to answer a cry for help in a foreign country where an American is victimized by crime.

A victim

A number of organizations provide invaluable assistance to victims of international terrorism and their families. The National Organization for Victim Assistance (NOVA), for example, worked in the 1980s with family members of U.S. hostages taken in Iran and Lebanon by convening support group meetings, developing a hostage family newsletter, and helping them contact governmental agencies. In 1990, the organization developed ***Coping with the Iraq/Kuwait Crisis: A Handbook*** for families and friends of Americans detained in Iraq and Kuwait,[5] and NOVA has coordinated crisis response teams in nearly a dozen countries including Japan, Canada, Bosnia, and Croatia.

NOVA has also been actively involved in training initiatives on international crisis response issues. Prior to the 1996 Summer Olympics in Atlanta, Georgia, the Office for Victims of Crime (OVC) provided funds to NOVA for the training of victim advocates and volunteers on national and international crisis intervention and response, including instruction from experts on how to assist foreign nationals victimized in the United States. After the bombing during the Olympics in Atlanta's Centennial Park, these advocates were instrumental in ensuring that victims received needed services.

Surviving family members whose loved ones were killed abroad by terrorists in various countries have voiced several concerns about the lack of appropriate services for victims and victims' families in the aftermath of the incident.[6] Specifically, they have expressed dissatisfaction with notification procedures after the death of their loved ones, red tape that made finding out information about their cases difficult and more painful, lack of regular updates about the status of their cases from responsible government officials, and the poor coordination between governmental agencies involved in these cases.

Commercial Sexual Exploitation of Children

Each year, an estimated 1 million children enter the multi-billion dollar illegal sex market.[7] Children are coerced, kidnapped, sold, deceived, or otherwise trafficked into enforced sexual encounters. The phenomenon of "sex tourism," which mainly involves men traveling to other countries to engage in sex with children, is well documented. The exact nature of exploitation differs from one country to another. In Asia, for example, children are sold, knowingly or unknowingly, into the sex trade by families or friends. In Africa, evidence suggests that the employment of children as domestic help frequently includes sexual exploitation. In Europe, children are trafficked from poorer to more affluent countries where the market for children is fueled by organized pedophile rings and high-tech information services. These rings also exists in Australia, Canada, the United Kingdom, and the United States.

The damage commercial sexual exploitation causes children is unquestioned. Children are robbed of their natural sexual development and their sense of dignity, identity, and self-esteem as well. Their physical and emotional health are put at tremendous risk, their rights are violated, and their only support may come from those who exploit them. To address these issues, Assistant Attorney General Laurie Robinson led the U.S. delegation to the World Congress Against Commercial Sexual Exploitation of Children in Stockholm, Sweden, in 1996. OVC provided funds to Education Development Center, Inc., to develop a report on strategies to stop the sexual exploitation of children, *Child Sexual Exploitation: Improving Investigations and Protecting Victims—A Blueprint for Action,* which was distributed at the conference. Since the World Congress, an interagency working group comprising representatives from the President's Interagency Council on Women, the Departments of Defense, Education, Justice, Labor, and State, as well as from U.S. Customs and the U.S. Postal Inspection Service, has met periodically to develop a coordinated federal agency strategy for prevention, investigation, and intervention in cases of commercial sexual exploitation of children.

International Parental Child Abduction

Parental abduction cases often involve international marriages that dissolve, with one parent returning to a native country with children who are too young to give legal consent. It is estimated that each year in the United States more than 350,000 children are abducted by a parent.[8] Of those abductions, reports vary on the numbers of children taken across international borders. One study found that children were known or believed to have been taken to another country in more than one-fifth of all child abductions. Earlier studies with smaller sample groups found that up to 40 percent of abductions may cross international boundaries.[9] Only a small percentage of these cases are ever reported to the State Department, however. The State Department's Office of Children's Issues Statistics reported a total 1,057 international child custody cases in 1994.[10]

The costs of searching for children who have been abducted are staggering. Many parents exhaust their life savings on telephone calls, attorneys, and private investigators. A 1990 study found that in international cases, more than half of the searching parents spent more than $10,000 and a few spent more than $50,000 in their efforts to retrieve their children.[11] Accurate statistics on recovery rates are not available, according to the National Center for Missing and Exploited Children, but success or failure often depends on whether the child was taken to one of the 45 countries that have signed the Hague Convention on the Civil Aspects of International Child Abduction. The recovery rate for Hague Convention countries varies by how well the courts of each country implement the treaty. Recovery rates for non-Hague countries are very low.

Since 1985, the Justice and State Departments have worked together through the National Center for Missing and Exploited Children to track kidnapped children taken across international borders and to help their parents obtain lawful custody under the Hague Convention's treaty on international child abductions. This joint initiative was recently renewed, and OVC will pay travel-related reunification costs for American parents who can prove that substantial economic hardship prevents them from recovering their children from overseas.

Recommendations from the Field for International Victim Assistance

INTERNATIONAL RECOMMENDATION FROM THE FIELD #1

The United States should continue to play a leadership role in the area of international victim assistance.

The United States should fully participate in United Nations-affiliated and other international conferences that include victim-related topics, including victim assistance and violence prevention. Participation should include representation by senior government officials, presentations, and submission of action-oriented resolutions on implementation of internationally coordinated victim rights, services, and violence prevention programs. Representation should reflect the diversity of the population of the United States.

INTERNATIONAL RECOMMENDATION FROM THE FIELD #2

International standards of victim assistance and victim rights should be established, including standards for criminal justice and allied professionals who work with crime victims.

Adoption of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power served as a significant first step in advancing victims rights around the globe, and an International Training Manual on Victim Assistance will go far to help countries implement the Declaration. More work is needed, however, to ensure that victims around the globe receive consistent and appropriate services. The United Nations should establish standards of victim assistance, and these standards should be adhered to by member states.

INTERNATIONAL RECOMMENDATION FROM THE FIELD #3

An international network of information, dissemination, training, and technical assistance on victim rights and assistance should be established.

The development of an international technical assistance and training capacity that involves cataloging, evaluating, and developing victim-related training materials as well as identifying qualified individuals to deliver such assistance should be developed. The International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme has made detailed recommendations concerning such a clearinghouse function. In addition, a database describing promising victim practices around the world should be established, similar to the database on promising prevention programs developed by the International Center for the Prevention of Crime in Canada.

An international database on promising practices could be built upon or incorporated into UNOJUST, the United Nations Online Crime and Justice Clearinghouse, a technical assistance program designed by the National Institute of Justice in the U.S. Department of Justice and the Office of International Narcotics and Law Enforcement in the Department of State to help the United Nations Program Network Institutes develop a technical capacity for global electronic information exchange on criminal justice issues. Such an exchange should also include victim issues.

INTERNATIONAL RECOMMENDATION FROM THE FIELD #4

Cross-cultural and multinational research on victimization, violence, and victim assistance should be promoted.

Because of differences in legal codes and definitions of crime among countries, reliable data that are comparable across nations has been difficult to obtain. The International Crime [Victimization] Survey is one positive step towards comprehensive, multinational data on crime victimization. More research in this area is needed, however, particularly for crimes such as child abuse and domestic violence which are largely unreported to police in most countries. Cross-cultural research should also be undertaken to identify promising victim assistance programs being utilized in different countries.

INTERNATIONAL RECOMMENDATION FROM THE FIELD #5

International reciprocity in the provision of victim compensation, restitution, and other assistance in cases involving foreign nationals should be promoted.

As more and more people travel around the world, crimes against foreign citizens, both in the United States and abroad, are likely to increase. In this country, states should examine their compensation and assistance programs to ensure that there is reciprocity in cases involving foreign nationals.

INTERNATIONAL RECOMMENDATION FROM THE FIELD #6

Standards and procedures should be developed to address criminal cases involving foreign crime victims.

In cases where a U.S. citizen commits a crime against a foreign national, policies and procedures should be established to allow such victims to participate in the criminal justice system, including providing, when appropriate and necessary, financial assistance for travel and telephone costs, language interpretation, and other services.

INTERNATIONAL RECOMMENDATION FROM THE FIELD #7

Communities with large numbers of tourists should establish special programs to assist international tourists who are victims of crime.

Every major city in the United States should establish programs for international tourist victims that provide, at a minimum, assistance with transportation and lodging, emergency medical assistance, advocacy and support through embassies and consulates, bereavement services, and communication assistance. Some victim advocates have proposed that such programs be funded through the collection of an "exit fee" assessed on international travelers. This fund could also be used to support services to U.S. citizens victimized abroad.

INTERNATIONAL RECOMMENDATION FROM THE FIELD #8

An international victim care corps under the auspices of the United Nations or an alternative body should be established.

International terrorism, major airline crashes, and other disasters often involve victims from many different areas of the world. An international victim care corps should be developed to include mobile, multilingual crisis response teams that are trained and able to respond quickly to community crisis situations in which national responses may prove insufficient. The corps should also include a pool of trained victim advocates to provide assistance, support, and representation to victims of crime or terrorism whose cases are heard by international bodies.

INTERNATIONAL RECOMMENDATION FROM THE FIELD #9

The federal government should develop a coordinated plan of action to respond to the needs of U.S. citizens who are victimized abroad. The State and Justice Departments should examine whether an ombudsman is needed to ensure effective information and services for these victims.

American citizens victimized abroad and their families often do not receive comprehensive victim assistance services in the country where the crime occurs or when they return home. This situation is complicated further when the crime involves terrorism or mass violence. International investigations become very complex, frequently involving multiple agencies. Often victims do not know where to turn for information or assistance. The federal government should consider establishing a victim ombudsman at the State or Justice Department to coordinate and streamline responses to Americans who are victimized abroad. Such an ombudsman would have responsibility for contacting victims and providing information and referrals to local services, updating victims on the status of the investigations, and serving as a point of contact to guide victims through the federal system.

INTERNATIONAL RECOMMENDATION FROM THE FIELD #10

The federal government should support the creation of a support group for victims of terrorism abroad.

Many victims of terrorism abroad, as well as surviving family members, have indicated that they feel very isolated following the traumatic event. Many survivors of international terrorism feel that it would aid their healing process to belong to a support group with other survivors. It is difficult, however, for these victims to identify and contact individuals who have experienced similar losses. The Departments of Justice and State should examine how they could help facilitate communication between these victims. In addition, they should establish an advisory task force of victims of terrorism abroad to recommend improvements in victim services.

INTERNATIONAL RECOMMENDATION FROM THE FIELD #11

The federal government should make every effort to fully implement the Federal Protection for Battered Immigrant Women and Child provision of the Violence Against Women Act, including mandatory training for all INS and asylum officers and others who work with immigrant populations.

Until the passage of the Battered Immigrant Women provision of the Violence Against Women Act, immigrant women who were dependant on their batterer for their legal status, could not escape their abusive situation without risking deportation. The new provision allows immigrant victims the opportunity to apply for legal status independent of their abusive spouse. While some immigrants have already benefited from this new measure, still others who may be eligible are not simply because they and the immigration officials handling their case are unaware the law exists. As such, all immigration and asylum officers should be fully trained concerning the existence of the new law, along with all policies and procedures created to implement the law. The officers should also be trained to identify immigrants who may be eligible and assist them with filing applications to avail themselves of the new provision.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

Endnotes

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9 Grief, G. and R. Hegar, *When Parents Kidnap*, New York: Free Press, 1993.

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Conclusion

As a society we have made great progress in meeting victims' needs since the 1982 *Final Report* of the President's Task Force on Victims of Crime. *New Directions* chronicles the advances on the legislative front and highlights scores of "promising practices" that have flourished in communities to improve services to victims. The growth and change of the field of victim assistance and victims' rights is far from over. As this report goes to press, there are more programs being developed, and more innovative approaches being taken to help victims find justice and healing. It has been abundantly clear throughout all the work in compiling *New Directions* that the field of victim assistance and victims' rights is dynamic. It is this very dynamism that ensures responsiveness to the evolving understanding of the needs of crime victims.

New Directions is thus not the final word on victims' issues and programs. It is, however, a sound compass that will help hold the course true in the years of work to come. The recommendations offer to all a starting point for discussion about how best to apply them within individual communities to meet local needs. The five global challenges from the field set forth in the executive summary—enacting and enforcing consistent, fundamental rights; providing equal access to comprehensive services; increasing public awareness and comprehensive training; replicating promising practices; and listening to crime victims—are a touchstone for these discussions.

While *New Directions* was three years in the making, in many ways the real work begins now—after you have read the recommendations, after you have examined the numerous promising practices presented in each section. For the work of *New Directions* is in its implementation. Each community should explore the recommendations and involve all those who work with crime victims in determining how best to achieve their goals. Each criminal justice agency, victim service organization, and allied professional organization should explore how it can change and improve the way in which it meets the needs of crime victims. And each individual who comes into contact with crime victims should study the recommendations and promising practices in this report to enhance the work each does. *New Directions* is a starting point for all.

Appendix A

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VOCA State Administrator's Regional Meetings, 1997

In January of 1997, OVC sponsored a series of meetings for Victims of Crime Act administrators and/or staff from all 50 states, the District of Columbia, and the U.S. Territories. The meetings were conducted in the following locations: Portland, Oregon; Alexandria, Virginia; Providence, Rhode Island; St. Louis, Missouri; and Austin, Texas. Surveys conducted at those meetings provided valuable input into *New Directions*.

Reference Sources

In compiling *New Directions*, literally hundreds of reference documents were utilized and are listed in the endnotes of each chapter. In addition, the authors would like to acknowledge the following reference sources that were invaluable in compiling this document: the *1996 Victims' Rights Sourcebook: A Compilation and Comparison of Victims Rights Laws,* 1997, produced by the National Victim Center, Arlington, Virginia and the *1995-1997 National Victim Assistance Academy Text,* produced by the Victims' Assistance Legal Organization and a consortium of experts in the field, Alexandria, Virginia. Both of these resources were developed with support from the Office for Victims of Crime.

Appendix B

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